ACQ Pty Ltd v Cook - [2009] HCA 28

HIGH COURT OF AUSTRALIA

FRENCH CJ,
GUMMOW, HEYDON, CRENNAN AND BELL JJ

Matter No S107/2009

ACQ PTY LIMITED APPELLANT

AND

GREGORY MICHAEL COOK & ANOR RESPONDENTS

Matter No S108/2009

AIRCAIR MOREE PTY LIMITED APPELLANT

AND

GREGORY MICHAEL COOK & ANOR RESPONDENTS

ACQ Pty Limited v Cook
Aircair Moree Pty Limited v Cook
[2009] HCA 28
5 August 2009
S107/2009 & S108/2009

ORDER

Matter No S107/2009

1. *Appeal dismissed.*

2. *Appellant to pay the costs of the first respondent.*

Matter No S108/2009

1. *Appeal dismissed.*

2. *Application for special leave to cross-appeal dismissed.*

3. *Appellant to pay the costs of the first respondent of both the appeal and the application for special leave to cross-appeal.*

On appeal from the Supreme Court of New South Wales

Representation

B W Walker SC with G Curtin for the appellants in both matters (instructed by Riley Gray-Spencer Lawyers)

P Menzies QC with G Giagios for the first respondent in both matters (instructed by Whitelaw McDonald)

Submitting appearances for the second respondent in both matters

CATCHWORDS

ACQ Pty Limited v Cook
Aircair Moree Pty Limited v Cook

Aviation – Liability for damage caused by aircraft – Crop dusting aircraft collided with conductor in cotton field – Electrical linesman dispatched to repair conductor tripped or fell near it – Injury occurring after electric arc – Whether injury "caused by ... something that is a result of an impact" with an aircraft in flight – *Damage by Aircraft Act* 1999 (Cth), s 10(1) .

Words and phrases – "something", "caused by".

Damage by Aircraft Act 1999 (Cth), ss 10(1), 11 .

FRENCH CJ, GUMMOW, HEYDON, CRENNAN AND BELL JJ.

The background facts

1. At about 5.30am on 28 December 2000 a crop dusting aircraft was spraying a cotton field known as Field 19 about 21.5km north of Moree. The aircraft was owned by ACQ Pty Limited. It was operated by Aircair Moree Pty Limited, a company which employed the pilot[1]. Field 19 had a power line – a 22kV conductor – passing over it. At the lowest point the line was about 6.2m above the ground. In the course of flying under the conductor, the aircraft collided with it and caused it to drop to a height of about 1.5m from the ground at its lowest point. NorthPower (now known as Country Energy), which was responsible for the conductor, was informed of the incident at about 6.04am. Less than a quarter of an hour later NorthPower despatched two of its employees, Mr Cook ("the plaintiff") and Mr Buddee, to deal with the problem. They each arrived at about 6.45am. They agreed that Mr Buddee would drive to a links site seven kilometres away and isolate the conductor. They also agreed that the plaintiff would wait until the conductor was isolated before commencing his assessment. Despite that agreement the plaintiff entered the field before the conductor was isolated in order to see what damage had been caused and assess what repair work might be required. On the field were planted cotton plants in rows one metre apart, the rows running in a north-south direction. The plants were more than half a metre high. They grew into each other, so that the rows formed low hedges. Between the rows were troughs in which water collected when the field was irrigated. Thus the ground in profile had the configuration of crests with troughs spaced one metre apart. The ground was uneven and extraordinarily boggy. The conductor, being thin, was difficult to see against the overcast sky. The plaintiff approached the conductor, about 65m from his truck, by crossing through lines of plants in a slightly diagonal direction. The plaintiff then stumbled or fell in the muddy conditions and came within 60mm of the conductor. An electric arc between the conductor and the plaintiff took place, injuring him badly.

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[1] ACQ Pty Limited and Aircair Moree Pty Limited are referred to below as "the appellants".

The legislation

2. There were numerous controversies in the courts below, but the only claim which is relevant to these appeals is a claim which the plaintiff made against the appellants. He made the claim under the *Damage by Aircraft Act* 1999 (Cth) ("the Act"). Section 10(1) provides:

> "This section applies if a person or property on, in or under land or water suffers personal injury, loss of life, material loss, damage or destruction caused by:

(a) an impact with an aircraft that is in flight, or that was in flight immediately before the impact happened; or

(b) an impact with part of an aircraft that was damaged or destroyed while in flight; or

(c) an impact with a person, animal or thing that dropped or fell from an aircraft in flight; or

(d) something that is a result of an impact of a kind mentioned in paragraph (a), (b) or (c)."

3. Section 10(2) provides that if s 10 applies, both the operator of the aircraft immediately before the impact happened, and the owner of the aircraft immediately before the impact happened, are jointly and severally liable in respect of the injury, loss, damage or destruction.

4. Section 11 provides:

> "Damages in respect of an injury, loss, damage or destruction of the kind to which section 10 applies are recoverable in an action in a court of competent jurisdiction in Australian territory against all or any of the persons who are jointly and severally liable under that section in respect of the injury, loss, damage or destruction without proof of intention, negligence or other cause of action, as if the injury, loss, damage or destruction had been caused by the wilful act, negligence or default of the defendant or defendants."

The trial

5. In the District Court of New South Wales, Johnstone DCJ found that the appellants were liable, and that s 9 of the *Law Reform (Miscellaneous Provisions) Act* 1965 (NSW) did not apply by reason of the fact that s 5A of the *Civil Liability Act* 2002 (NSW) was not enlivened, as the plaintiff's claim was not a claim in negligence. Consequently, there was no reduction in damages on the ground of any contributory negligence on the part of the plaintiff. The trial judge entered a verdict for the plaintiff against the appellants for $953,141.00 and gave judgment accordingly [2] .

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[2] *Cook v Aircair Moree Pty Ltd* (2007) 5 DCLR (NSW) 142; [2007] NSWDC 164 .

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6. The appellants submitted to the trial judge that s 10(1)(a)-(c) would only apply if the aircraft, or part of it, or something falling from it, struck the plaintiff, and that s 10(1)(d) would only apply if one of those objects struck an object that then struck the plaintiff. The trial judge rejected that submission. He held that the plaintiff had suffered personal injury caused by "something" that was the result of an impact of the aircraft, in flight, with the conductor. That "something" was the dislodgment of the conductor from a supporting pole, which created a foreseeable risk for persons near, or persons who might approach, the live conductor, such as linesmen from NorthPower.

The Court of Appeal

7. The Court of Appeal of the Supreme Court of New South Wales (Campbell JA, with Beazley and Giles JJA concurring) dismissed an appeal by the appellants [3] .

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[3] *ACQ Pty Ltd v Cook* [2008] NSWCA 161.

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8. The appellants repeated the submission they had made to the trial judge. However, the Court of Appeal considered that the impact of the aircraft with the conductor caused it to hang low over "a field that was uneven, extraordinarily boggy, and methodically strewn with obstacles in the form of the rows of cotton bushes." It said:

> "The conductor was extremely dangerous in itself; the impact caused it to be in a position where people were at risk of getting dangerously close to it, and [the plaintiff] was injured when he encountered that precise risk."

Thus the "something" which caused the plaintiff's personal injuries was the creation of a danger to persons who got close to the conductor [4] .

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[4] *ACQ Pty Ltd v Cook* [2008] NSWCA 161 at [140]-[142] .

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9. The appellants, by special leave, have appealed to this Court. Each appeal should be dismissed for the following reasons.

The appellants' primary arguments

10. The appellants did not repeat the argument which had been rejected by the trial judge and the Court of Appeal. Rather they submitted that the legislation did not provide a universal comprehensive scheme to award damages to every person who sustained an injury that was in some way connected to the impact of an aircraft, part of an aircraft, or something which fell from an aircraft whilst in flight. In particular they submitted that "something that is a result of an impact" of those kinds should be construed as being a thing (for example, a fire or a collapse of a building) which "has an immediate (or reasonably immediate) temporal, geographical and relational connection with an impact."

11. The appellants relied on the words "a person or property on, in or under land or water". They contended that those words created a "geographical limitation". They argued that those words could not have referred to all persons except those aloft, because that conception could have been much more straightforwardly expressed. They submitted that if that was all the phrase "on, in or under land or water" did, it was "puzzling" and "odd". It was "an extremely roundabout crabwise way of saying as long as you are not in an aircraft in flight." Hence the

appellants submitted that the land or water had to be located in a place linking the impact and the claimed damage. The words did "not obviously include" persons brought to the scene by reason of the impact (including those who came to rectify or repair the state of affairs created by the impact). Thus, the words required plaintiffs to be at a place on, in or under land or water which was linked with the impact at the time of the impact.

12. The appellants claimed to disavow any attempt to contend that whatever the extent to which the plaintiff's own negligence had contributed to his loss, it was so high as to break the chain of causation. They criticised the Court of Appeal for analysing the case from the point of view of whether the plaintiff was "the sole author of his own misfortune" [5] . Rather they submitted that the chain of causation was too remote to apply to a well-trained worker who came a considerable distance to remedy a fault arising out of a static set of circumstances which would have caused no danger to the plaintiff had he not, voluntarily, fully appreciating the danger from the damaged conductor and the muddy field, and without the press of emergency, departed from his agreement with Mr Buddee to do nothing until the conductor had been isolated.

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[5] *ACQ Pty Ltd v Cook* [2008] NSWCA 161 at [141] .

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13. The appellants further submitted that for s 10(1)(d) to operate, there had to be injury caused by "something" – not a series of things or a narrative of intermediate events or "the whole ensemble of circumstances that combined to bring [the plaintiff] from his home to within 60mm of the conductor." Paragraph (d) of s 10(1) had "to be useful and to add something", in the singular, and "caused by" did not "include … multistage narrative to link the impact with the outcome." Section 10(1)(d) added one more permissible stage between the impact and the outcome, but only one.

Narrow basis of this decision

14. **Following paragraph cited by:**

Florescu v Australian Meat Company (29 November 2018) (Saccardo)

> "… is one of the most difficult in the law, and one about which abstract discussion is seldom valuable for courts … " [10]

via
[10] Ibid

Florescu v Australian Meat Company (29 November 2018) (Saccardo)
Pisani v Transport Accident Commission (14 April 2014) (His Honour Judge Saccardo)

The words of the legislation are brief and general. The circumstances to which arguably they may or may not apply are very numerous and diverse. The arguments of the parties raised for consideration many factual possibilities other than the one before the Court. This is, it seems, the first case in which it has been necessary for curial analysis to be given to the construction of the legislation. The field of debate, causation, is one of the most difficult in the law, and one about which abstract discussion is seldom valuable for courts and those who practise in them. It is thus undesirable to deal with possible applications of the legislation which are not essential for the decision of this case. Most cases on s 10(1) are likely to be intensely fact-specific. Certainly the present one is. Hence no endeavour should be made to resolve other cases while deciding this one.

The appellants' concession and its consequences

15. In the course of illustrating the scope of s 10(1) as they submitted it to be, the appellants gave an illustration of a plane exploding on landing, thus setting alight structures nearby and causing death or injury to a plaintiff whose house is burned down. They conceded that a fire fighter who was summoned to fight the fire and who was injured by it would be within s 10(1)(d), even if the scene of the fire was some distance from the fire station. That concession was correct because, as the appellants accepted, there was no reason not to conclude that the fire fighter's injury was caused by "something" that was a result of an impact between the aircraft and the ground, namely the fire. The appellants, however, distinguished that case from the present one:

> "There is the world of difference between a rescuer who is answering the call of either nature or society to save another person … from peril, on the one hand, and on the other hand, a person who comes to a scene of evident danger precisely because the danger is evident and because of their skills, experience and position, occupation, in order to repair or rectify that dangerous position where there is no peril to another person … requiring the risks to be undertaken in order to answer the calls of nature or social duty."

16. The distinction is not a valid ground on which to deny liability in the present case. First, it cannot be said that the damaged conductor involved "no peril to another person". One of the reasons why the plaintiff and Mr Buddee were sent to the scene was to nullify a peril to agricultural workers and others who might approach it. Secondly, given that the conductor did involve a peril to agricultural workers and others, there is no difference between the role of fire fighters in reducing perils from the fire and the role of linesmen in reducing and overcoming perils from the damaged conductor. The plaintiff was engaged in activities incidental to the reduction and abatement of those perils – inspecting the damage and assessing what repair work was necessary. He may have been negligent in breaching his agreement with Mr Buddee and in other ways, but, as noted above, the appellants did not contend that his negligence was such as to be the true or sole cause of his injuries.

17. The appellants' concession, and its application to the plaintiff here, involved an abandonment of their argument based on the words "on, in or under land or water" – for the land on which the hypothetical fire fighter and the plaintiff were at the time of the impact was some distance from the scene of the impact, and they had to travel that distance to get there. To call the

drafting roundabout, puzzling, odd and crabwise is an exaggeration. The words "on, in or under land or water" serve to distinguish those accidents to which s 10(1) applies from accidents in the air, to which other legal regimes apply.

18. There is no linguistic strain in characterising what happened to the plaintiff as a personal injury caused by "something" that is "a" result of an impact between the aircraft in flight and the conductor. The plaintiff adopted the trial judge's conclusion that the "something" was the movement of the conductor into a dangerous place, 1.5m above the ground at its lowest point, creating a foreseeable risk for persons near it. The Court of Appeal appeared to treat the "something" as the movement of the conductor into a position where people were at risk of getting dangerously close to it. There is no substantive difference between these characterisations in this case, and they are correct. The injury was caused by the dangerous position of the conductor, and its dangerous position was the result of an impact between the aircraft and it.

The appellants' specific criticisms of the Court of Appeal considered

19. The appellants submitted that on the approach of the Court of Appeal there was "virtually no limit" to the liability created by s 10(1)(d) for results flowing from the impacts described in s 10(1)(a)-(c).

20. The appellants submitted that there were two particular errors in the reasoning of the Court of Appeal.

21. The first error lay in the following utilisation of the legislative history [6]: "Article 1 of the Rome Convention had provided for there to be no right to compensation '*if the damage is not a direct consequence of the incident giving rise thereto*'." The Court of Appeal said that s 10(1)(d) altered this so that not only the direct consequences of an impact attracted limited liability, but also the indirect or consequential results of an impact. The Court of Appeal said that this construction was consistent with the language, the legislative history, and the purpose of the Act.

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[6] *ACQ Pty Ltd v Cook* [2008] NSWCA 161 at [136] (italics in original).

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22. The background is that Art 1(1) of the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface agreed at Rome on 7 October 1952[7] ("the Rome Convention") provided:

> "Any person who suffers damage on the surface shall, upon proof only that the damage was caused by an aircraft in flight or by any person or thing falling therefrom, be entitled to compensation as provided by this Convention. Nevertheless there shall be no right to compensation if the damage is not a *direct* consequence of the incident giving rise thereto, or if the damage results from the mere fact of passage of the aircraft through the airspace in conformity with existing air traffic regulations." (emphasis added)

Section 8(1) of the *Civil Aviation (Damage by Aircraft) Act* 1958 (Cth) provided that the provisions of the Rome Convention had the force of law in Australia. That legislation was repealed by the Act (s 13 and Sched 1). Section 3 of the Act provides:

> "The main object of this Act is to facilitate the recovery of damages for certain injury, loss, damage or destruction caused by aircraft, or by people, animals or things that are dropped, or that fall, from aircraft that are in flight."

According to the Court of Appeal the word "facilitate" showed "an intention to improve the pre-existing situation." [8] The Court of Appeal also referred to various parts of the Minister's Second Reading Speech[9] which spoke of improving compensation and making it comprehensive, which identified drawbacks to the Rome Convention regime, and which described gaps in State and Territory legislation.

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[7] 310 UNTS 181.

[8] *ACQ Pty Ltd v Cook* [2008] NSWCA 161 at [114].

[9] Australia, House of Representatives, *Parliamentary Debates* (Hansard), 24 March 1999 at 4163-4165.

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23. The appellants submitted that it was erroneous to conclude that the purpose of ss 10 and 11 was to include, "apparently without relevant limitations …, indirect or consequential results of an impact." In particular, they submitted that such a purpose was "unsupported by all the extrinsic material."

24. It is not proposed to analyse the Second Reading Speech or the use to which the Court of Appeal put it. Nor is it proposed to analyse the fairly numerous references which the parties made to that speech and to other extrinsic material. That is because whatever utility those materials might have in relation to other cases, they are not determinative of any particular construction which is decisive of this case [10]. The appellants were correct to say, at least in relation to this case, that there is nothing in the extrinsic materials definitively supporting the result at which the Court of Appeal arrived. The Court of Appeal, nevertheless, was correct to conclude that s 10(1)(d) does in a sense extend liability from "direct consequences" to "indirect or consequential results". What these two categories of expression may mean is another issue.

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[10] The same is true of an even more remote guide to which both parties appealed in different respects, namely this Court's decision in *Allianz Australia Insurance Ltd v GSF Australia Pty Ltd* (2005) 221 CLR 568; [2005] HCA 26, a case on very different legislation.

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25. **Following paragraph cited by:**

Ait Aiss v Vistamaze Pty Ltd (15 September 2025)

17. The fact that pre-existing condition(s) may be a factor in the need for the treatment does not mean that the proposed treatment is not a result of the injury. As Roche DP stated in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*):

> "[57] …a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1 979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [2 7] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Suthe rland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Webster v TAFE NSW (North Coast Institute) (12 September 2025)
Hamilton v ERBD Pty Ltd (03 September 2025)

73. In *Murphy v Allity Management Services Pty Ltd [8]* Roche DP stated at [57] and [58]:

> "… a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
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> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the

surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716) ".

Jordan v Heidelberg Materials Australia Pty Ltd (11 August 2025)
Jordan v Heidelberg Materials Australia Pty Ltd (11 August 2025)
Barnes v Alicia Pullen Pty Ltd (07 August 2025)
Adams v Anakiwa Fishing Pty Ltd (03 July 2025)

86. In *Murphy v Allity Management Services Pty Ltd* [13] Roche DP stated at [57] and [58]:

"… a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)".

Konemann v Southside Staffing Solutions Pty Ltd (27 May 2025)
Angelkoski v Woolworths Group Ltd (07 May 2025)
Kay v Charles Sturt University (05 May 2025)

51. In *Murphy v Allity Management Services Pty Ltd* [8] Roche DP stated:

"… a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the

injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Lopez v Schwartz Family Co Pty Ltd Atf the Schwartz Family Trust (22 April 2025)

87. I am therefore of the view that the applicant's left wrist injury in the form of carpal tunnel syndrome is a continuing injury which has not resolved. That the applicant's symptoms have grumbled on since the accepted injury was sustained and whilst they have worsened, they have not done so dramatically. The fact that pre-existing conditions, such as the diabetes and hypothyroidism, may have been factors in the need for treatment does not mean that the proposed treatment is not a result of the injury. As Roche DP in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*) stated:

> "[57] …a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
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> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Shanahan v Marsh Pty Ltd (04 March 2025)
Shipley v Visscher Caravelle Australia Pty Ltd (31 December 2024)

170. The work injury does not have to be the only, or even a substantial, cause of the need for reasonably necessary treatment. In *Murphy v Allity Management Services Pty Ltd,* [64] Deputy President Roche said at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant

treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Grey v Endeavour Energy (31 October 2024)
Lewis v Lewis (21 October 2024)
Ilin v State of New South Wales (Northern Sydney Local Health District) (11 October 2024)

106. In *Murphy v Allity Management Services Pty Ltd [6]* Roche DP stated:

"...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the common sense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Mannix v Coles Supermarkets Australia Pty Ltd (09 October 2024)
Warwick-Smith v Sydney Trains (23 September 2024)

100. In *Taxis Combined* ,[6] it was also observed that:

"…It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). More importantly, the injury does not have to be the only, or even a substantial, cause of the need for the proposed treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act. As the section states, and the Arbitrator acknowledged (at [55]

and other places), Mr Schokman only has to establish that the proposed treatment is reasonably necessary 'as a result of' the injury…"

Tsiklas v Catering Industries Pty Ltd (16 September 2024)
Shankar v Transdev NSW South Pty Limited (19 August 2024)
McMillan v State of New South Wales (Mid North Coast Local Health District) (15 August 2024)

81. The work injury does not have to be the only, or even a substantial, cause of the need for the reasonably necessary treatment. In *Murphy v Allity Management Services Pty Ltd,* [50] Deputy President Roche said at [57] -[58]:

"Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] -[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Gardyne v Med-X Pty Ltd (06 August 2024)
Jennison v Secretary, Department of Education (24 June 2024)
Culhana v State of New South Wales (NSW Police Force) (17 May 2024)

220. In considering the expression, "as a result of" in the context of s 60 of the 1987 Act, Deputy President Roche in *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [12] found:

"The Arbitrator was correct to observe that the presence of a pre-existing condition did not mean that the need for treatment did not "result from" the injury in the sense discussed in *Kooragang* . The appellant's submissions have ignored the fundamental principle that employers must take workers as they find them (Spigelman CJ (Bryson AJA agreeing) in *State Transit Authority (NSW) v Chemler* [2007] NSWCA 249 at [40] ; [2007] NSWCA 249; 5 DDCR 286).

…

It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). More importantly, the injury does not have to be the only, or even a substantial, cause of the need for the proposed treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act. As the section states, and the Arbitrator acknowledged (at [55] and other places), Mr Schokman only has to establish that the proposed treatment is reasonably necessary "as a result of" the injury. On the evidence called from Dr Roessler, he easily met that test."

McQuillan v Sean Mitchell Agencies (22 April 2024)
State of New South Wales (Mid North Coast Local Health District) v Hennessey (11 April 2024)
Diakanastasis v Secretary, Department of Education (09 April 2024)

81. In ***DEWAN SINGH AND KIM SINGH T/AS KRAMBACH SERVICE STATION V WICKENDEN,*** [15] **DEPUTY PRESIDENT ROCHE DISCUSSED WHETHER THERE NEEDED TO BE A CAUSAL CONNECTION. HE STATED:**

"In s 10(3A), which talks about a real and substantial connection between the employment and the accident or incident, the connection may be provided by establishing that the employment caused the accident, but that is not a necessary requirement. Even if, contrary to my view, s 10(3A) requires a causal connection between the employment and the accident, the employment does not have to be the only, or even the main, cause. It is trite law that an accident can have many causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]).

The use of the indefinite article 'a', in s 10(3A), makes it clear that employment does not have to be 'the' connection between the accident or incident. It only has to be 'a' connection, albeit one that is real and of substance (*Bina* at [112] , citing *Badawi v Nexon Asia Pacific Pty Ltd t/as Commander Australia Pty Ltd* [2009] NSWCA 324; 75 NSWLR 503 (*Badawi*) at [82]–[83] and [107]). That requirement is satisfied on the facts of the present case because Ms Wickenden's employment required her to work later than normal. That meant she finished work in darkness and had to journey home on a narrow country road in darkness.

For the reasons already canvased above, the darkness unarguably played a role in the accident. That role did not have to be the cause of the accident. It only had to provide 'a' connection, of substance, between the employment and the accident. In other words, the employment had to create, and did create, a factual association or connection with the employment that was real and of substance." [16]

Gardener v Canterbury Bankstown Council (19 March 2024)

63. In *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49. Roche DP at [57] and [58] said:

> "57. Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1 979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [2 7] ; 237 CLR 656 . The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> 58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]- [55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Moore v Australian Native Landscapes Pty Ltd (19 March 2024)

51. The work injury does not have to be the only, or even a substantial, cause of the need for the reasonably necessary treatment. In *Murphy v Allity Ma nagement Services Pty Ltd*, [12] Deputy President Roche said at [57] -[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1 979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [2 7] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] -[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Thurlow v CDC NSW Pty Ltd (07 March 2024)

191. In *Murphy v Allity Management Services Pty Ltd* [48] Deputy President Roche discussed at [57] – [58] the requirement of reasonable necessity for surgery in the context of the facts of that case. He said:

> "57. …a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> 58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

McCann v Arch-System Fabrication Pty Ltd (25 January 2024)
Amos v Bretlife Pty Ltd (09 January 2024)

100. In terms of whether a proposed treatment is reasonably necessary as a result of the work-related injury Roche DP in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*) stated:

> "[57] ….a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] a nd [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Suthe rland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Talevski v Coles Supermarkets Australia Pty Ltd (27 November 2023)

54. In *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49, Roche DP at [57] and [58] said:

> "57. Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1 979) 53WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; 237 CLR 656 . The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> 58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]- [55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Head v Secretary, Department of Education (20 November 2023)
Tunks v Patrick Stevedores Holdings Pty Ltd (17 November 2023)
Wu v State of New South Wales (Southern NSW Pathology Service) (03 November 2023)

257. In relation to whether the need for the treatment arises as a result of a work injury, in *Murphy v Allity Management Services Pty Ltd* [204] Roche DP stated at [57] and [58]:

> "… a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2 009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [20 14] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Shipley v Visscher Caravelle Australia Pty Ltd (03 November 2023)
Paratore v Mooravit Pty Ltd t/as Harvey Norman (25 October 2023)

Snaidero v Australian Home Care Services Pty Ltd (16 October 2023)
Burrell v Marble Group Pty Ltd (18 September 2023)
Woof v Yahweh Care Ptd Ltd (06 September 2023)

86. In *Murphy v Allity Management Services Pty Ltd [1]* Roche DP stated:

> "...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the common sense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Delaney v CSR Building Products Ltd (31 July 2023)

134. In *Murphy v Allity Management Services Pty Ltd* [100] Roche DP stated at [57] and [58]:

> "… a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

McIlrick v Aruma Services NSW Ltd (26 July 2023)

61. The guiding authority on this issue is what was said by DP Roche in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*) at [57]-[58] :

> "…a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1 979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [2 7] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the common sense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury' (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Eddy v The Trustee for the Packcentre Unit Trust ATF the Packcentre Unit Trust (26 July 2023)
Leonardi v Moran Australia (Residential Aged Care) Pty Ltd (25 July 2023)
Hutchison v State of New South Wales (Northern Sydney Local Health District) (18 July 2023)
Hawatt v Pro Earthworx Pty Ltd (06 June 2023)
Willow v Secretary, Department of Education (08 May 2023)
Kitabayashi v Qantas Airways Limited (24 April 2023)

80. In *Murphy v Allity Management Services Pty Ltd* [6] Roche DP stated:

> "… a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2 009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [20 14] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)".

Searle v Qantas Airways Limited (21 April 2023)
BOA v State of New South Wales (NSW Police Force) (14 April 2023)
Friend v Vacvator Pty Ltd (05 April 2023)

Habra v Workers Compensation Nominal Insurer (iCare) (20 March 2023)
Nguyen v Real Pet Food Company Pty Ltd (16 February 2023)

121. It is uncontroversial that a need for treatment can result from multiple causes. In *Murphy v Allity Management Services Pty Ltd [9]* Roche DP stated:

> "…That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Jackson v Secretary, Department of Education (09 January 2023)
Stephenson v Menzies Campbelltown South Pty Limited (22 December 2022)

113. It is uncontroversial that a need for treatment can result from multiple causes. In *Murphy v Allity Management Services Pty Ltd [4]* Roche DP stated:

> "…That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Usman v Woolworths Group Limited (13 December 2022)
Azizi v Hillbus Co Pty Ltd (17 November 2022)

95. In *Murphy v Allity Management Services Pty Ltd* [23] Roche DP stated at [57] and [58]:

> "… a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)".

State of New South Wales (Western Sydney Local Health District) v Wright (07 November 2022)
Mann v Dahlsens Building Centres Pty Ltd (27 October 2022)
Orr v Rostin Pty Ltd t/as Highland Glass (26 October 2022)

58. The relevant test is set out DP Roche in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*) at [57- 58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary "as a result of" the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Elliot v Franklins Pty Limited (18 October 2022) (President Judge Phillips)
Broadbent v Superior Food Group Pty Ltd (14 October 2022)

162. In *Murphy v Allity Management Services Pty Ltd [13]* Roche DP stated:

> "[57] …That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Grubba v No.1 Riverside Quay Pty Ltd (10 October 2022)

45. In *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49. Roche DP at [57] and [58] said:

> "57. Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; 237 CLR 656 . The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> 58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]- [55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Hinde v Tarago Operations Pty Ltd (07 October 2022)
Arkwright v Arkwright Enterprise Pty Ltd (15 September 2022)

95. Mr Arkwright's work injury does not have to be the only, or even a substantial, cause of the need for the reasonably necessary treatment. In *Murphy* , Deputy President Roche said at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1 979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [2 7] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] -[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Nicolaides v Blacktown City Council (15 August 2022)

57. At [110] Roche DP in *Wretowska* considered this question, with reference to the facts in that case, in the following terms:

> "It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]). That is especially so in cases concerning a psychological injury where, in many cases, multiple events over a long period have contributed to the injury. Just because Ms Wretowska stopped work after the events of 12 and 14 November 2011, and did not have time off work before that time and did not seek treatment for emotional conditions until 14 November 2011, does not mean that those events were the whole or predominant cause of her injury. It is necessary to look at the whole of the conduct alleged to have caused the injury and to consider the evidence in light of that conduct."

Anderson v Grocery Delivery E-Services Australia Pty (05 August 2022)
Viluan v MQ Health Pty Ltd (13 July 2022)
Al Hadidi v Form1 Building & Construction Pty Ltd (28 June 2022) (Rachel Homan)

299. It is well established that a condition can have multiple causes. In *Murphy v Allity Management Services Pty Ltd* Roche DP stated [5] :

> "…That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont*

Publishing Co Pty Ltd v Peters (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Al Hadidi v Form1 Building & Construction Pty Ltd (28 June 2022) (Rachel Homan)
Hendrix v Accuro Homecare Pty Ltd (22 June 2022)
Kennedy v Boral Limited (21 June 2022)

124. *Calman* was referred to in *McCarthy v Department of Corrective Services [6]* , where Roche DP made observations concerning the appropriate test on causation for establishing an entitlement to weekly compensation:

"It is trite law that a loss can result from more than one cause (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; (2009) 83 ALJR 986). The authority of *Calman* is also instructive on this issue. The Court held (at [38], excluding footnotes):

'Once the appellant established that his underlying anxiety disorder was an injury within the meaning of the Workers Compensation Act , he was entitled 'to compensation ... under [that] Act' upon proof that his total or partial incapacity for work resulted from that injury. The question then for the Tribunal was whether the appellant's incapacity was causally connected to the underlying anxiety disorder. It has long been settled that incapacity may result from an injury for the purposes of workers' compensation legislation even though the incapacity is also the product of other - even later - causes. Indeed, death or incapacity may result from a work injury even though the death or incapacity also results from a later, non-employment cause. Thus, in *Co nkey & Sons Ltd v Miller*, Barwick CJ, with whose judgment Gibbs, Stephen, Jacobs and Murphy JJ agreed, held that it was open to the Workers' Compensation Commission to find from the medical evidence in that case 'that the death by reason of myocardial infarction when it did ultimately occur, 'resulted' from the work-caused injury of the first infarction, even if it could not be said that the final infarction was itself caused by work-caused injury.'"

Deosa Enterprises Pty Ltd v Morcos (21 June 2022)
ZWF NSW Pty Ltd v Deguara (17 June 2022)

49. Common law principles of causation in tort are to be applied to determine the degree of permanent impairment a worker has from a work injury. [5] It is trite that an impairment of a worker can have multiple causes. [6]

via

[6] *Calman v Commission of Police* [1999] HCA 60 at [38]-[40] (*Calman*); *ACQ Pty Ltd v Cooke* [2009] HCA 28 at [25] .

Neorczik v George Weston Foods Limited (15 June 2022)

"Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Longworth v Secretary, Department of Transport (15 June 2022)
Grace v State of New South Wales (NSW Police Force) (09 June 2022)
Brookes v Ewp Plant Equipment Sales Service and Spares (24 May 2022) (Rachel Homan)
Osburg v Rajkumar Stephens t/as Beecroft Cheltenham Orthopaedic Associates (11 May 2022)

55. The applicant referred to the decision in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49. Roche DP at [57] and [58] said:

"57. Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; 237 CLR 656 . The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]- [55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Slingsby v Allity Management Services Pty Ltd (29 April 2022)

141. In *Wretowska*, Deputy President Roche said at [110]:

> "It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]). That is especially so in cases concerning a psychological injury where, in many cases, multiple events over a long period have contributed to the injury. Just because Ms Wretowska stopped work after the events of 12 and 14 November 2011, and did not have time off work before that time and did not seek treatment for emotional conditions until 14 November 2011, does not mean that those events were the whole or predominant cause of her injury. It is necessary to look at the whole of the conduct alleged to have caused the injury and to consider the evidence in light of that conduct."

Beeton v Woolworths Group Limited (12 April 2022)
Jowett v S & R Jowett Pty Ltd (28 February 2022)

126. In *Murphy v Allity Management Services Pty Ltd [10]* Roche DP stated:

> "...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the common sense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Winiarski v Bankstown City Aged Care Pty Ltd (18 February 2022)
Taylor v Scotts Refrigerated Logistics (10 January 2022)

35. An injury can of course have more than one cause [20] and in these proceedings Mr Taylor has in effect alleged he sustained injury to his left shoulder (a) in the nature of an 'injury simpliciter' resulting from his duties with SRL between 19 May 2016 to date, (b) in the nature of an aggravation, acceleration, exacerbation or deterioration of a pre-existing disease resulting from his duties with SRL with a deemed date of injury of 22 June 2020 and/or (c) as a result of injury sustained to his right shoulder on 19 May 2019.

via
[20] *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] (*Cook*).

Sisko v State of New South Wales (Illawarra Shoalhaven Local Health District) (17 December 2021)
Clark v State of NSW (NSW Police Force) (17 December 2021)
Clark v State of NSW (NSW Police Force) (17 December 2021)
Quigg v Woolstar Pty Ltd (08 December 2021)
Quigg v Woolstar Pty Ltd (08 December 2021)
ACR v Grace Worldwide Pty Ltd (07 December 2021) (Deputy President Elizabeth Wood)

> 243. It is trite law that a condition, especially a psychological condition, can have multiple causes. [66] In *Doyle* [67] Fitzgerald JA (Mason P agreeing) said that:
>
> > "... the whole or predominant cause of [the worker's] psychological injury within the meaning of subs 11A(1) is a question of fact and degree, which involves consideration of all the factors which produced [the worker's] condition."

via
[66] *ACQ Pty Ltd v Cook* [2009] HCA 28, [25] .

State of New South Wales (NSW Police Force) v Nguyen (20 October 2021) (Deputy President Michael Snell)
Malaquin v Woolworths Group Limited (14 October 2021)
Winters v Endeavour Energy (28 September 2021)

> 103. It is accepted that a condition can have multiple causes, but the applicant must establish that the injury materially contributed to the need for the treatment. This was confirmed by Deputy President Roche in *Murphy* , where he stated:
>
> > "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1 979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [2 7] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
> >
> > Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd*

v Schokman [2014] NSWWCCPD 18 at [40] – [55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)." [17]

Tham v Qantas Airways Limited (23 September 2021)

105. The work injury does not have to be the only, or even a substantial, cause of the need for the reasonably necessary treatment. In *Murphy v Allity Management Services Pty Ltd* [30] , Deputy President Roche said at [57] -[58]:

"Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1 979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [2 7] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] -[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Brown v Shellbelt Pty Limited (20 September 2021)

136. The presence of pre-existing pathology at the right shoulder does not necessarily mean that the surgery now proposed does not "result from" the work injuries. In *Taxis Combined Services (Victoria) Pty Ltd v Schokman [8]* Deputy President Roche found:

"The Arbitrator was correct to observe that the presence of a pre-existing condition did not mean that the need for treatment did not "result from" the injury in the sense discussed in *Kooragang* . The appellant's submissions have ignored the fundamental principle that employers must take workers as they find them (Spigelman CJ (Bryson AJA agreeing) in *S tate Transit Authority (NSW) v Chemler* [2007] NSWCA 249 at [40] ; [2 007] NSWCA 249; 5 DDCR 286).

> Thus, the fact that Mr Schokman had pre-existing periodontitis and poor oral hygiene, which may have been factors in him developing peri-implantitis, does not mean that the proposed treatment of the peri-implantitis is not as a result of the injury.
> …
> It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). More importantly, the injury does not have to be the only, or even a substantial, cause of the need for the proposed treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act. As the section states, and the Arbitrator acknowledged (at [55] and other places), Mr Schokman only has to establish that the proposed treatment is reasonably necessary "as a result of" the injury. On the evidence called from Dr Roessler, he easily met that test."

Brown v Shellbelt Pty Limited (20 September 2021)
Bridgefoot v Sydney Catholic Schools Limited (07 September 2021)
Bryce v State Transit Authority of NSW (24 August 2021)

61. The guiding authority on this issue is what was said by DP Roche in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy)* at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary "as a result of" the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Bryce v State Transit Authority of NSW (24 August 2021)
Swindale v Bingo Industries Limited (23 August 2021)
Connecting Families Pty Ltd v Babatunde Ejueyitsi (09 August 2021) (Member Marshal Douglas, Dr Brian Parsonage, Dr Julian Parmegiani)

32. The Appeal Panel also considers there is merit in the respondent's submission that going to church is not a social and recreational activity. The plurality in *Ballas v Department of Education (State of NSW)* *[4]* held , "the 'social and recreational activities' scale looks to the injured worker' s degree of participation in such activities". The respondent went to church to pray, not for recreation or for social activity. It was a religious activity. In any event, insofar as there was social interaction between the respondent and others whilst he was church it was limited to brief conversations. That only confirms, in the Appeal Panel's view, that the respondent's impairment in social activity was moderate.

via *ACQ Pty Ltd v Cooke* [2009] HCA 28 at [25] .

Tough v Protech Pty Ltd (26 July 2021)
Syed v Orrcon Pty Ltd (05 July 2021) (Member Marshal Douglas, Professor Nicholas Glozier, Dr Julian Parmegiani)
Manera v Diversey Australia Pty Ltd (02 July 2021)
Hanna v Aus Inventive Design Pty Ltd (25 June 2021)

151. In *Taxis Combined Services (Victoria) Pty Ltd v Schokman* *[6]* the worker suffered extensive facial injuries in an assault at work which ultimately resulted in the loss of his four upper central incisors. At the time, the worker had pre-existing periodontal disease that was not related to the assault. The applicant was treated with a bridge supported by two implants. A number of years later the applicant was noted to have bone loss around the left side implant, which represented "early implantitis", and which required treatment. After a referral to an Approved Medical Specialist for a non-binding opinion, an arbitrator found that the work injury contributed "in a material and real way to the present condition, and therefore the need for treatment." In confirming the arbitrator's determination Roche DP commented:

"The Arbitrator was correct to observe that the presence of a pre-existing condition did not mean that the need for treatment did not "result from" the injury in the sense discussed in *Kooragang* . The appellant's submissions have ignored the fundamental principle that employers must take workers as they find them (Spigelman CJ (Bryson AJA agreeing) in *S tate Transit Authority (NSW) v Chemler* [2007] NSWCA 249 at [40] ; [2 007] NSWCA 249; 5 DDCR 286).

Thus, the fact that Mr Schokman had pre-existing periodontitis and poor oral hygiene, which may have been factors in him developing peri-implantitis, does not mean that the proposed treatment of the peri-implantitis is not as a result of the injury.
…
It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656).

More importantly, the injury does not have to be the only, or even a substantial, cause of the need for the proposed treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act. As the section states, and the Arbitrator acknowledged (at [55] and other places), Mr Schokman only has to establish that the proposed treatment is reasonably necessary "as a result of" the injury. On the evidence called from Dr Roessler, he easily met that test."

Hanna v Aus Inventive Design Pty Ltd (25 June 2021)
Anderson v Fulton Hogan Industries Pty Ltd (20 May 2021)
Thomas v Holcim (Australia) Pty Ltd (18 May 2021)
Hopping v E.M Utick Pty Limited (14 May 2021)
Reynolds v Edmen Pty Ltd t/as Edmen Community Staffing Solutions (14 April 2021)

167. In *Murphy v Allity Management Services Pty Ltd* [8] Roche DP stated:

"… a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)".

Lutz v State of New South Wales (Ambulance Service of New South Wales) (07 April 2021)

63. Roche DP also addressed the term "as a result of an injury received by a worker" in the context of s 60 of the 1987 Act in *Murphy v Allity Management Services Pty Ltd* [30] and said at [57-58]:

"Moreover even, if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a

condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Williamson v Coles Group Limited (07 April 2021)
Chapple v Woolworths Limited (07 April 2021)
Muir v CNS Marine Enterprises Pty Ltd (17 March 2021)

91. It is uncontroversial that there can be multiple causes of a condition. In *Murphy v Allity Management Services Pty Ltd [4]* Roche DP stated:

> "[57] …That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Mitchell v Ready Workforce (A Division of Chandler Macleod) Pty Ltd (12 March 2021)
Scales v Bunnings Group Limited (05 March 2021)

Nader v A O Design Pty Ltd (01 April 2020) (Deputy President Michael Snell)
Australia and New Zealand Banking Group Limited v Khullar (20 January 2020) (Deputy President Michael Snell)

20. The Arbitrator referred to a passage from my decision in *Megson v Staging Connections Group Ltd* ,[24] which adopted part of what was said by Roche DP in *Murphy v Allity Management Services Pty Ltd*. [25] The principle of causation applied in *Murphy*, which the Arbitrator in the current matter described as "appropriate to the current circumstances", was the following:

> "57. Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1 979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [2 7] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> 58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)." [26]

Wyllie-Gray v Fitness First Australia Pty Ltd (10 July 2019) (Deputy President Michael Snell)
YZ (a pseudonym) v The Age Company Limited (22 February 2019) (His Honour Judge O'Neill)
Megson v Staging Connections Group Ltd (24 January 2019) (Deputy President Michael Snell)
Lagana v Australian Retirement Partners Realty Pty Ltd (17 September 2015) (Deputy Bill P Roche)
Murphy v Allity Management Services Pty Ltd (24 August 2015) (Deputy Bill P Roche)
Trustees of the Roman Catholic Church for the Diocese of Parramatta v Barnes (15 June 2015) (Deputy Bill P Roche)

53. However, the letters made it clear that Ms Barnes was making only one claim, namely, a claim for $49,087.50, being the compensation payable for a 26 per cent whole person impairment that has resulted from the three work incidents. It is open to her to make that claim and the use of the singular ("an injury") in s 66(1) does not prevent her doing so. That is

because, as Mr Stanton submitted, and for the reasons discussed below, a single loss can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]).

Cargill Meat Processors Pty Ltd v Tuson (20 June 2014) (P Keating J)
Taxis Combined Services (Victoria) Pty Ltd v Schokman (08 April 2014) (Deputy Bill P Roche)
Dewan Singh and Kim Singh t/as Krambach Service Station v Wickenden (18 March 2014) (Deputy Bill P Roche)
St George Leagues Club Ltd v Wretowska (26 November 2013) (Deputy Bill P Roche)

110. It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]). That is especially so in cases concerning a psychological injury where, in many cases, multiple events over a long period have contributed to the injury. Just because Ms Wretowska stopped work after the events of 12 and 14 November 2011, and did not have time off work before that time and did not seek treatment for emotional conditions until 14 November 2011, does not mean that those events were the whole or predominant cause of her injury. It is necessary to look at the whole of the conduct alleged to have caused the injury and to consider the evidence in light of that conduct.

Shore v Tumbarumba Shire Council (07 January 2013) (Acting Bill P Roche)

46. In the present case, there was no dispute that Mr Shore received a psychological injury as a result of the events on 8 July 2010, or that his employment was a substantial contributing factor to that injury. It is trite law, however, that a condition can have more than one cause (*ACQ Pty Ltd v Cook* [2009] HCA 28; 237 CLR 656 at [25] and [27]). Given the way Mr McManamey argued the case at the arbitration, and given the (albeit unsatisfactory) pleadings, there can be no doubt that there was a live issue as to whether the transfer was the whole or predominant cause of Mr Shore's accepted psychological injury. That issue could not be properly determined by saying that the claim, as defined by the Application, related to 8 July 2010 and the meeting on that day.

Arnold v Holiday Coast Transportation Services Pty Ltd (13 March 2012) (Deputy Bill P Roche)

106. It may be that Mr Arnold's inability to work more than his current hours is the result of several concurrent conditions, some work-related and some not. Even if that is so, if, regardless of his other medical conditions, his right knee injury is restricting him to his current hours, he may still be entitled to the full difference between his probable earnings but for injury and his actual earnings. While a worker is only entitled to compensation for so much of his or her loss as has resulted from the injury (*Williams v Metropolitan Coal Co Ltd* [1948] HCA 8; 76 CLR 431 per Starke J at 444), a loss can have more than one cause (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; 237 CLR 656 ; *Calman v Commissioner of Police* [19

99] HCA 60 at [38]; 73 ALJR 1609; *Conkey & Sons Ltd v Miller* (1977) 51 ALJR 583). The Arbitrator failed to consider these principles.

New South Wales Police Service v Shelley (18 October 2011) (Deputy Bill P Roche)
Lauda Enterprises Pty Ltd v Akkanen (24 August 2010) (Deputy Bill P Roche)
McCarthy v Department of Corrective Services (22 March 2010) (Deputy Bill P Roche)
Menzies Property Services Pty Ltd v Murialdo (22 December 2009) (Deputy Bill P Roche)
Amity Group Pty Ltd v Yusuf (01 December 2009) (Deputy Bill P Roche)

108. Even if Ms Yusuf's marital and other personal problems have contributed to her depression, that does not prevent a finding that her depression has resulted from her work injuries. It is trite law that a condition can have more than one cause (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]). What is required is satisfaction that, on the balance of probabilities and as a matter of common sense, the condition complained of has resulted from the injury (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452 ('*Kooragang*')).

The second criticism which the appellants made of the Court of Appeal related to the relationship between s 10(1) and the common law. The Court of Appeal applied to s 10(1) "the understanding of the concept of causation" [11] expressed in *March v E & M H Stramare Pty Ltd* by Mason CJ, Deane, Toohey and Gaudron JJ [12] in relation to the tort of negligence and applied in *Wardley Australia Ltd v Western Australia* [13] . As stated by the Court of Appeal [14] , the relevant test is:

> "a test of causation whereby it was a question of fact to be answered by reference to commonsense and experience, and one into which considerations of policy and value judgments necessarily enter. When causation is so regarded, the law has no difficulty in recognising that there can be multiple causes of the one damage."

The Court of Appeal said that that understanding should be applied to the words "caused by" in s 10(1) . It said [15] :

> "While the meaning that is given to an expression in one area of the law is not necessarily the same as the meaning given to that same expression in a different area of the law, [there is] nothing in the purpose for which a judgment about causal connection is made in the law of negligence that differentiates it from the purpose for which a judgment is made about causal connection for the purpose of the application of [the Act]. In both cases, the purpose is deciding how legal liability to pay damages for loss or damage should fall. Further, in [the Act] there is a particularly close connection between the way in which causation works to attribute that responsibility, and the way causation works in the law of negligence. It arises in [s 11 of the Act], where it provides that damages of a kind referred to in [s] 10 are recoverable '*as if the injury, loss, damage or destruction had been caused by the wilful act, negligence or default of the defendant or defendants*'."

The appellants criticised the last sentence on the ground that the words "as if" in s 11 could not point to any particular causation test: s 10(1) dealt with causation as a "self-contained code", while s 11 assumed satisfaction of s 10(1) .

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[11] *ACQ Pty Ltd v Cook* [2008] NSWCA 161 at [139] .

[12] (1991) 171 CLR 506; [1991] HCA 12 .

[13] (1992) 175 CLR 514 at 525 per Mason CJ, Dawson, Gaudron and McHugh JJ; [1992] HCA 55 .

[14] *ACQ Pty Ltd v Cook* [2008] NSWCA 161 at [137] .

[15] *ACQ Pty Ltd v Cook* [2008] NSWCA 161 at [139] (italics in original).

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26. The appellants also criticised the Court of Appeal for failing to act on a passage which it quoted from Mason CJ's reasons for judgment in *March v Stramare* [16] :

> "[A] factor which secures the presence of the plaintiff at the place where and at the time when he or she is injured is not causally connected with the injury, unless the risk of the accident occurring at that time was greater".

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[16] (1991) 171 CLR 506 at 516.

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27. **Following paragraph cited by:**

Sydney Trains v Singh (29 July 2025)
Woodward Foods Australia Pty Ltd v Meredith (03 May 2024)

> 30. The Appeal Panel also acknowledges the challenge that exists where restrictions arise from injuries to multiple body parts, some of which attract an additional impairment allowance for activities of daily living, some of which do not. It must always be remembered that there can be multiple causes of damage suffered by a person: *ACQ Pty Limited v Cook; Aircair Moree Pty Limited v Cook* [2009] HCA 28 at [27] .

Mooney v White (07 April 2022) (Deputy President Michael Snell)
Robinson v Technamill Plc Pty Limited (13 September 2021)
Australia and New Zealand Banking Group Limited v Khullar (20 January 2020) (Deputy President Michael Snell)
MPGTC Pty Limited v Jones (08 November 2019) (President Judge Phillips)

State of New South Wales v Ak (28 August 2018) (Deputy President Michael Snell)
State of New South Wales v Butler (03 November 2017)
DP World Sydney Limited v Lambley (22 November 2013) (Vice President Catanzariti, Vice President Lawler, Commissioner Cambridge)
Mobbs v Kain (16 October 2009) (Giles, McColl and Macfarlan JJA)

Not every lawyer has found the analysis of causation in *March v Stramare* helpful. But, without casting doubt on anything that was said in *March v Stramare* or in *Wardley Australia Ltd v Western Australia* , it is not necessary in construing s 10(1) to rely on any analogy with what was said in those cases, at least in the course of resolving the present appeals. To this limited extent there is some force in the appellants' submissions. And quite independently of the Court of Appeal's translation of *March v Stramare* to s 10(1) , one of the principal points extracted by the Court of Appeal from that case is uncontroversial, and was not controverted by the appellants – the proposition that there can be multiple causes of the damage suffered by a plaintiff. Further, the context of the passage quoted from Mason CJ's reasons for judgment in *March v Stramare* reveals that Mason CJ was concerned merely to reject the "but for" test as an exclusive criterion of causation. It is true that but for the impact of the aircraft on the conductor the plaintiff would not have been injured; but the causal relationship between the impact and the injury was much closer than that, and did not rest exclusively on a "but for" analysis.

The appellants' reliance on arguments from absurdity

28. **Following paragraph cited by:**

Walker v Clough Property Claremont Pty Ltd (04 December 2009) (Kenneth Martin J)

A final argument by the appellants was that on the Court of Appeal's approach, the plaintiff could have recovered damages if, after he had been summoned to the scene of the accident, he had injured himself hurrying from his house to his truck, or driven off the road on his journey, or injured himself while alighting from the truck on arrival. This conclusion (and other illustrations which the appellants gave), they said, would rest on an "absurd, extraordinary, capricious, irrational or obscure" construction [17] . It is far from clear that those epithets would be correct: but, in any event, decisions about the injuries postulated can be made when it is necessary to make them. The problems they pose are different from the problems posed in these appeals.

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[17] Citing *Cooper Brookes (Wollongong) Pty Ltd v Federal Commissioner of Taxation* (1981) 147 CLR 297 at 321 per Mason and Wilson JJ; [1981] HCA 26 .

Proposed cross-appeal

29. For those reasons the appeals should be dismissed. The plaintiff filed an application for special leave to cross-appeal against the Court of Appeal's allowing of an appeal against the trial judge's conclusion that the operator was in breach of a duty of care owed to the plaintiff. The application was defensive in the sense that it was filed only against the possibility that the appeals by the appellants succeeded. Since those appeals must fail, there is no need to consider the application for special leave to cross-appeal, and it should be dismissed. Because that application took up very little time, and because it was only triggered by the appeal of the operator, it is appropriate that the operator pay the costs of the application for special leave to cross-appeal.

Orders

30. The following orders should be made.

No S107 of 2009

1. The appeal is dismissed.

2. The appellant is to pay the costs of the first respondent.

No S108 of 2009

1. The appeal is dismissed.

2. The application for special leave to cross-appeal is dismissed.

3. The appellant is to pay the costs of the first respondent of both the appeal and the application for special leave to cross-appeal.

Cited by:

Ait Aiss v Vistamaze Pty Ltd [2025] NSWPIC 478 (15 September 2025)

17. The fact that pre-existing condition(s) may be a factor in the need for the treatment does not mean that the proposed treatment is not a result of the injury. As Roche DP stated in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*):

> "[57] ...a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxi*

s Combined Services (Victoria) Pty Ltd v Schokman [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Ait Aiss v Vistamaze Pty Ltd [2025] NSWPIC 478 (15 September 2025)

17. The fact that pre-existing condition(s) may be a factor in the need for the treatment does not mean that the proposed treatment is not a result of the injury. As Roche DP stated in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*):

> "[57] ...a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxi s Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Webster v TAFE NSW (North Coast Institute) [2025] NSWPIC 477 -
Webster v TAFE NSW (North Coast Institute) [2025] NSWPIC 477 -
Hamilton v ERBD Pty Ltd [2025] NSWPIC 454 (03 September 2025)

73. In *Murphy v Allity Management Services Pty Ltd [8]* Roche DP stated at [57] and [58]:

> "... a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (197 3) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)".

Hamilton v ERBD Pty Ltd [2025] NSWPIC 454 -
Jordan v Heidelberg Materials Australia Pty Ltd [2025] NSWPIC 392 (11 August 2025)

84. A condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR

656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Jordan v Heidelberg Materials Australia Pty Ltd [2025] NSWPIC 392 -
Jordan v Heidelberg Materials Australia Pty Ltd [2025] NSWPIC 392 -
Barnes v Alicia Pullen Pty Ltd [2025] NSWPIC 384 (07 August 2025)

127. In terms of whether a proposed treatment is reasonably necessary as a result of the work-related injury Roche DP in *Murphy* stated:

> "[57] ....a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Barnes v Alicia Pullen Pty Ltd [2025] NSWPIC 384 -
Sydney Trains v Singh [2025] NSWPICMP 551 -
Adams v Anakiwa Fishing Pty Ltd [2025] NSWPIC 317 (03 July 2025)

86. In *Murphy v Allity Management Services Pty Ltd* [13] Roche DP stated at [57] and [58]:

> "... a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)".

Adams v Anakiwa Fishing Pty Ltd [2025] NSWPIC 317 -
Konemann v Southside Staffing Solutions Pty Ltd [2025] NSWPIC 228 -
Konemann v Southside Staffing Solutions Pty Ltd [2025] NSWPIC 228 -
Angelkoski v Woolworths Group Ltd [2025] NSWPIC 193 (07 May 2025)

164. A need for treatment can "result from" multiple causes. In *Murphy v Allity Management Services Pty Ltd [7]* Roche DP stated:

> "...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Angelkoski v Woolworths Group Ltd [2025] NSWPIC 193 -
Kay v Charles Sturt University [2025] NSWPIC 184 (05 May 2025)

51. In *Murphy v Allity Management Services Pty Ltd [8]* Roche DP stated:

> "... a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Kay v Charles Sturt University [2025] NSWPIC 184 (05 May 2025)

51. In *Murphy v Allity Management Services Pty Ltd [8]* Roche DP stated:

> "... a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014]

NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Lopez v Schwartz Family Co Pty Ltd Atf the Schwartz Family Trust [2025] NSWPIC 168 (22 April 2025)

87. I am therefore of the view that the applicant's left wrist injury in the form of carpal tunnel syndrome is a continuing injury which has not resolved. That the applicant's symptoms have grumbled on since the accepted injury was sustained and whilst they have worsened, they have not done so dramatically. The fact that pre-existing conditions, such as the diabetes and hypothyroidism, may have been factors in the need for treatment does not mean that the proposed treatment is not a result of the injury. As Roche DP in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*) stated:

> "[57] ...a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Lopez v Schwartz Family Co Pty Ltd Atf the Schwartz Family Trust [2025] NSWPIC 168 -
Shanahan v Marsh Pty Ltd [2025] NSWPIC 69 -
Shanahan v Marsh Pty Ltd [2025] NSWPIC 69 -
Attard v Planet Motor Cycles Pty Ltd [2025] NSWPIC 39 (05 February 2025)

36. Roche DP confirmed the arbitrator's decision finding that treatment was reasonably necessary as a result of the injury. After referring to the trite law in *ACQ Pty Ltd v Cook* (2009) 237 CLR 656 that a condition can have multiple causes, he stated on causation:

> "It follows that, even if it were accepted that the peri-implantitis was 'caused' (in the sense of having been materially contributed to) by the non-work factors listed by Dr Boland, that would not prevent a finding that, as a matter of commonsense, the need for the proposed treatment has arisen 'as a result of' the injury. That is because, as Dr Roessler explained, the peri-implantitis is 'only there because Mr Schokman has implants'. This is not a matter of merely saying that 'but for' the presence of the implants Mr Schokman would not have the peri-implantitis, though that is undoubtedly true. It is a matter of concluding that, as a matter of commonsense, the injury was a material cause of the need for the proposed treatment (because it brought about the need for the implants), even if other factors were also present that may have also contributed to that need". (at [54])

Shipley v Visscher Caravelle Australia Pty Ltd [2024] NSWPIC 722 (31 December 2024)

170. The work injury does not have to be the only, or even a substantial, cause of the need for reasonably necessary treatment. In *Murphy v Allity Management Services Pty Ltd,* [64] Deputy President Roche said at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Shipley v Visscher Caravelle Australia Pty Ltd [2024] NSWPIC 722 -
Global Retail Brands Australia Pty Ltd v Bed Bath 'N' Table Pty Ltd [2024] FCAFC 139 (31 October 2024) (Nicholas, Katzmann and Downes JJ)

48. One area in which the primary judge's findings will be treated with deference is where they comprise findings of fact likely to have been affected by impressions about the credibility of witnesses formed by the trial judge after seeing and hearing their evidence: see *Fox v Percy* (2003) 214 CLR 118; [2003] HCA 22 at [25]-[29] , *Lee v Lee* (2019) 266 CLR 129; [2009] HCA 28 at [55] . These include "... findings of secondary facts which are based on a combination of impressions and other inferences from primary facts".

Grey v Endeavour Energy [2024] NSWPIC 612 -
Lewis v Lewis [2024] NSWPIC 590 -
Ilin v State of New South Wales (Northern Sydney Local Health District) [2024] NSWPIC 565 (11 October 2024)

106. In *Murphy v Allity Management Services Pty Ltd [6]* Roche DP stated:

> "...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the common sense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Ilin v State of New South Wales (Northern Sydney Local Health District) [2024] NSWPIC 565 -

Mannix v Coles Supermarkets Australia Pty Ltd [2024] NSWPIC 559 -
Mannix v Coles Supermarkets Australia Pty Ltd [2024] NSWPIC 559 -
Warwick-Smith v Sydney Trains [2024] NSWPIC 529 (23 September 2024)

100. In *Taxis Combined* ,[6] it was also observed that:

> "...It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). More importantly, the injury does not have to be the only, or even a substantial, cause of the need for the proposed treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act. As the section states, and the Arbitrator acknowledged (at [55] and other places), Mr Schokman only has to establish that the proposed treatment is reasonably necessary 'as a result of' the injury..."

Warwick-Smith v Sydney Trains [2024] NSWPIC 529 -
Tsiklas v Catering Industries Pty Ltd [2024] NSWPIC 512 -
Shankar v Transdev NSW South Pty Limited [2024] NSWPIC 447 -
Shankar v Transdev NSW South Pty Limited [2024] NSWPIC 447 -
McMillan v State of New South Wales (Mid North Coast Local Health District) [2024] NSWPIC 442 (15 August 2024)

81. The work injury does not have to be the only, or even a substantial, cause of the need for the reasonably necessary treatment. In *Murphy v Allity Management Services Pty Ltd,* [50] Deputy President Roche said at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] -[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

McMillan v State of New South Wales (Mid North Coast Local Health District) [2024] NSWPIC 442 (15 August 2024)

81. The work injury does not have to be the only, or even a substantial, cause of the need for the reasonably necessary treatment. In *Murphy v Allity Management Services Pty Ltd,* [50] Deputy President Roche said at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] -[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Arnold v Arnold's Industrial Maintenance Pty Ltd [2024] NSWPICMP 557 (09 August 2024)

47. The test of causation to be applied is one of material contribution. The Appeal Panel accepts that there can be multiple causes for loss, per *ACQ Pty Ltd v Cook* [2009] HCA 28 , which equally applies to the question of causation in this matter. In the present circumstances, the Appeal Panel are not satisfied that the work-related injury materially contributes to the tinnitus suffered by the appellant which appeared approximately 20 years after he ceased being exposed to loud noise, and the work-related injury he suffered, which is said to have occurred "in one blow".

White v DM Ifield & L.B Ifield [2024] NSWPIC 427 -
Gardyne v Med-X Pty Ltd [2024] NSWPIC 421 -
Gardyne v Med-X Pty Ltd [2024] NSWPIC 421 -
Riley v Deebel Group Pty Ltd [2024] NSWPIC 414 -
McNickle v Huntsman Chemical Company Australia Pty Ltd (Initial Trial) [2024] FCA 807 -
Jennison v Secretary, Department of Education [2024] NSWPIC 330 (24 June 2024)

104. In terms of whether a proposed treatment is reasonably necessary as a result of the work-related injury Roche DP in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*) stated:

> "[57] ....a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxi s Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Jennison v Secretary, Department of Education [2024] NSWPIC 330 -
Haddara v FLH NSW Pty Ltd [2024] NSWPIC 302 -
Culhana v State of New South Wales (NSW Police Force) [2024] NSWPIC 257 (17 May 2024)

220. In considering the expression, "as a result of" in the context of s 60 of the 1987 Act, Deputy President Roche in *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [12] found:

> "The Arbitrator was correct to observe that the presence of a pre-existing condition did not mean that the need for treatment did not "result from" the injury in the sense discussed in *Kooragang* . The appellant's submissions have ignored the fundamental principle that employers must take workers as they

find them (Spigelman CJ (Bryson AJA agreeing) in *State Transit Authority (NSW) v Chemler* [2007] NSWCA 249 at [40] ; [2007] NSWCA 249; 5 DDCR 286).

...

It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). More importantly, the injury does not have to be the only, or even a substantial, cause of the need for the proposed treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act. As the section states, and the Arbitrator acknowledged (at [55] and other places), Mr Schokman only has to establish that the proposed treatment is reasonably necessary "as a result of" the injury. On the evidence called from Dr Roessler, he easily met that test."

Culhana v State of New South Wales (NSW Police Force) [2024] NSWPIC 257 -
Woodward Foods Australia Pty Ltd v Meredith [2024] NSWPICMP 271 (03 May 2024)

30. The Appeal Panel also acknowledges the challenge that exists where restrictions arise from injuries to multiple body parts, some of which attract an additional impairment allowance for activities of daily living, some of which do not. It must always be remembered that there can be multiple causes of damage suffered by a person: *ACQ Pty Limited v Cook; Aircair Moree Pty Limited v Cook* [2009] HCA 28 at [27] .

Oakes v PLO Enterprises Pty Ltd [2024] NSWPIC 204 -
McQuillan v Sean Mitchell Agencies [2024] NSWPIC 202 (22 April 2024)

97. In *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49. Roche DP at [57] and [58] said:

"57. Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656 . The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Tax is Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] - [55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

McQuillan v Sean Mitchell Agencies [2024] NSWPIC 202 -
State of New South Wales (Mid North Coast Local Health District) v Hennessey [2024] NSWPICMP 219 -
Diakanastasis v Secretary, Department of Education [2024] NSWPIC 173 (09 April 2024)

81. In ***DEWAN SINGH AND KIM SINGH T/AS KRAMBACH SERVICE STATION V WICKENDEN,*** [15] **DEPUTY PRESIDENT ROCHE DISCUSSED WHETHER THERE NEEDED TO BE A CAUSAL CONNECTION. HE STATED:**

"In s 10(3A), which talks about a real and substantial connection between the employment and the accident or incident, the connection may be provided by

establishing that the employment caused the accident, but that is not a necessary requirement. Even if, contrary to my view, s 10(3A) requires a causal connection between the employment and the accident, the employment does not have to be the only, or even the main, cause. It is trite law that an accident can have many causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]).

The use of the indefinite article 'a', in s 10(3A), makes it clear that employment does not have to be 'the' connection between the accident or incident. It only has to be 'a' connection, albeit one that is real and of substance (*Bina* at [112] , citing *B adawi v Nexon Asia Pacific Pty Ltd t/as Commander Australia Pty Ltd* [2009] NSWCA 324; 75 NSWLR 503 (*Badawi*) at [82]–[83] and [107]). That requirement is satisfied on the facts of the present case because Ms Wickenden's employment required her to work later than normal. That meant she finished work in darkness and had to journey home on a narrow country road in darkness.

For the reasons already canvased above, the darkness unarguably played a role in the accident. That role did not have to be the cause of the accident. It only had to provide 'a' connection, of substance, between the employment and the accident. In other words, the employment had to create, and did create, a factual association or connection with the employment that was real and of substance." [16]

Gardener v Canterbury Bankstown Council [2024] NSWPIC 132 (19 March 2024)

63. In *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49. Roche DP at [57] and [58] said:

"57. Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; 237 CLR 656 . The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxi s Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Moore v Australian Native Landscapes Pty Ltd [2024] NSWPIC 131 (19 March 2024)

51. The work injury does not have to be the only, or even a substantial, cause of the need for the reasonably necessary treatment. In *Murphy v Allity Management Services Pty Ltd,* [12] Deputy President Roche said at [57]-[58]:

"Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] an

d [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] -[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Moore v Australian Native Landscapes Pty Ltd [2024] NSWPIC 131 -
Thurlow v CDC NSW Pty Ltd [2024] NSWPIC 110 (07 March 2024)

191. In *Murphy v Allity Management Services Pty Ltd* [48] Deputy President Roche discussed at [57] – [58] the requirement of reasonable necessity for surgery in the context of the facts of that case. He said:

"57. ...a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Tax is Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] – [55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Thurlow v CDC NSW Pty Ltd [2024] NSWPIC 110 -
Tran v The Henry Schein Regional Trust ATF The Henry Schein Regional Trust [2024] NSWPIC 85 -
McCann v Arch-System Fabrication Pty Ltd [2024] NSWPIC 31 -
McCann v Arch-System Fabrication Pty Ltd [2024] NSWPIC 31 -
Amos v Bretlife Pty Ltd [2024] NSWPIC 9 (09 January 2024)

100. In terms of whether a proposed treatment is reasonably necessary as a result of the work-related injury Roche DP in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*) stated:

"[57] ....a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

[58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxi s Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]

–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Amos v Bretlife Pty Ltd [2024] NSWPIC 9 -
Talevski v Coles Supermarkets Australia Pty Ltd [2023] NSWPIC 633 (27 November 2023)

54. In *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49, Roche DP at [57] and [58] said:

> "57. Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; 237 CLR 656 . The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> 58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Head v Secretary, Department of Education [2023] NSWPIC 621 -
Tunks v Patrick Stevedores Holdings Pty Ltd [2023] NSWPIC 618 -
Tunks v Patrick Stevedores Holdings Pty Ltd [2023] NSWPIC 618 -
Wu v State of New South Wales (Southern NSW Pathology Service) [2023] NSWPIC 583 (03 November 2023)

257. In relation to whether the need for the treatment arises as a result of a work injury, in *Murphy v Allity Management Services Pty Ltd* [204] Roche DP stated at [57] and [58]:

> "... a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Shipley v Visscher Caravelle Australia Pty Ltd [2023] NSWPIC 585 -
Shipley v Visscher Caravelle Australia Pty Ltd [2023] NSWPIC 585 -
Wu v State of New South Wales (Southern NSW Pathology Service) [2023] NSWPIC 583 -
Paratore v Mooravit Pty Ltd t/as Harvey Norman [2023] NSWPIC 564 (25 October 2023)

170. A need for treatment can result from multiple causes. In *Murphy v Allity Management Services Pty Ltd [11]* Roche DP stated:

> "...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Paratore v Mooravit Pty Ltd t/as Harvey Norman [2023] NSWPIC 564 -
Snaidero v Australian Home Care Services Pty Ltd [2023] NSWPICMP 514 -
Burrell v Marble Group Pty Ltd [2023] NSWPIC 481 -
Burrell v Marble Group Pty Ltd [2023] NSWPIC 481 -
Woof v Yahweh Care Ptd Ltd [2023] NSWPIC 453 (06 September 2023)

86. In *Murphy v Allity Management Services Pty Ltd [1]* Roche DP stated:

> "...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the common sense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Woof v Yahweh Care Ptd Ltd [2023] NSWPIC 453 -
Delaney v CSR Building Products Ltd [2023] NSWPIC 378 (31 July 2023)

134. In *Murphy v Allity Management Services Pty Ltd* [100] Roche DP stated at [57] and [58]:

> "... a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Delaney v CSR Building Products Ltd [2023] NSWPIC 378 -
McIlrick v Aruma Services NSW Ltd [2023] NSWPIC 372 (26 July 2023)

61. The guiding authority on this issue is what was said by DP Roche in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*) at [57]-[58] :

> "...a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (197 3) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the common sense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury' (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

McIlrick v Aruma Services NSW Ltd [2023] NSWPIC 372 -
Eddy v The Trustee for the Packcentre Unit Trust ATF the Packcentre Unit Trust [2023] NSWPIC 374 -
Eddy v The Trustee for the Packcentre Unit Trust ATF the Packcentre Unit Trust [2023] NSWPIC 374 -
Leonardi v Moran Australia (Residential Aged Care) Pty Ltd [2023] NSWPIC 369 -
Leonardi v Moran Australia (Residential Aged Care) Pty Ltd [2023] NSWPIC 369 -
Hutchison v State of New South Wales (Northern Sydney Local Health District) [2023] NSWPIC 354 -
Hutchison v State of New South Wales (Northern Sydney Local Health District) [2023] NSWPIC 354 -
Hawatt v Pro Earthworx Pty Ltd [2023] NSWPIC 262 (06 June 2023)

71. In *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*), DP Roche said at [57]-[58] :

> "...a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the common sense test of causation (*Koorag ang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Hawatt v Pro Earthworx Pty Ltd [2023] NSWPIC 262 -
Lewis v DMS Maritime Pty Ltd [2023] NSWPIC 231 (22 May 2023)

33. In this matter the applicant must establish that the injury he sustained to his right shoulder while working with the respondent materially contributed to the need for the proposed surgical treatment. This requirement was confirmed by former Deputy President Roche in *Murphy v Allity Management Services Pty Ltd* [14] where he stated:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA at [25] – [27]; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the common sense test of causation (*Kooragang)* that the treatment is reasonably necessary 'as a result of' of the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] – [55]). That is, she has to establish that the injury materially contributed to the need for surgery (see discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Willow v Secretary, Department of Education [2023] NSWPIC 206 -
Kitabayashi v Qantas Airways Limited [2023] NSWPIC 180 (24 April 2023)

80. In *Murphy v Allity Management Services Pty Ltd* [6] Roche DP stated:

> "... a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)".

Kitabayashi v Qantas Airways Limited [2023] NSWPIC 180 -
Searle v Qantas Airways Limited [2023] NSWPIC 175 -
Searle v Qantas Airways Limited [2023] NSWPIC 175 -
BOA v State of New South Wales (NSW Police Force) [2023] NSWPIC 161 (14 April 2023)

383. Roche DP said, at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236;

Pyrmont Publishing Co Pty Ltd v Peters (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materiBMC contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

BOA v State of New South Wales (NSW Police Force) [2023] NSWPIC 161 -
Friend v Vacvator Pty Ltd [2023] NSWPIC 224 -
Friend v Vacvator Pty Ltd [2023] NSWPIC 224 -
Habra v Workers Compensation Nominal Insurer (iCare) [2023] NSWPIC 116 (20 March 2023)

220. It is not necessary that a work injury be the sole cause of a need for surgery. In *Murphy v Allity Management Services Pty Ltd,* [14] Roche DP considered the claim of a worker who suffered a work injury and a later incident when she fell in a supermarket. Surgery was recommended after the later fall and an arbitrator in the former Workers Compensation Commission found that it was needed as a result of that fall. Roche DP said:

"Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Habra v Workers Compensation Nominal Insurer (iCare) [2023] NSWPIC 116 -
BCW v Illawarra Shoalhaven Local Health District [2023] NSWPIC 98 (15 March 2023)

344. In the matter of *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*), Deputy President Roche said at [57] :

"...a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* [1] ; *Pyrmont Publishing Co Pty Ltd v Peters* [2] ; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* [3] ; *ACQ Pty Ltd v Cook* [4] . The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* [5]), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman*

[6]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* [7])."

BCW v Illawarra Shoalhaven Local Health District [2023] NSWPIC 98 -
Sarangan v State of New South Wales (Sydney Local Health District) [2023] NSWPIC 100 -
Nguyen v Real Pet Food Company Pty Ltd [2023] NSWPIC 63 (16 February 2023)

121. It is uncontroversial that a need for treatment can result from multiple causes. In *Murphy v Allity Management Services Pty Ltd* [9] Roche DP stated:

> "...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Nguyen v Real Pet Food Company Pty Ltd [2023] NSWPIC 63 -
Jackson v Secretary, Department of Education [2023] NSWPIC 1 (09 January 2023)

100. Whilst subsequent events, or matters unrelated to the workplace injury on 9 September 2015, may also have contributed to the applicant's lumbar condition, it is well established that a condition can have multiple causes. In *Murphy v Allity Management Services Pty Ltd* [8] Roche DP stated:

> "That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
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> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Jackson v Secretary, Department of Education [2023] NSWPIC 1 -
Stephenson v Menzies Campbelltown South Pty Limited [2022] NSWPIC 735 (22 December 2022)

113. It is uncontroversial that a need for treatment can result from multiple causes. In *Murphy v Allity Management Services Pty Ltd* [4] Roche DP stated:

"...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Stephenson v Menzies Campbelltown South Pty Limited [2022] NSWPIC 735 (22 December 2022)

113. It is uncontroversial that a need for treatment can result from multiple causes. In *Murphy v Allity Management Services Pty Ltd [4]* Roche DP stated:

"...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Usman v Woolworths Group Limited [2022] NSWPIC 718 -
Azizi v Hillbus Co Pty Ltd [2022] NSWPIC 640 (17 November 2022)

95. In *Murphy v Allity Management Services Pty Ltd* [23] Roche DP stated at [57] and [58]:

"... a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury

materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)".

Azizi v Hillbus Co Pty Ltd [2022] NSWPIC 640 (17 November 2022)

95. In *Murphy v Allity Management Services Pty Ltd* [23] Roche DP stated at [57] and [58]:

> "... a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
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> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)".

State of New South Wales (Western Sydney Local Health District) v Wright [2022] NSWPICMP 443 -
Mann v Dahlsens Building Centres Pty Ltd [2022] NSWPIC 599 -
Mann v Dahlsens Building Centres Pty Ltd [2022] NSWPIC 599 -
Orr v Rostin Pty Ltd t/as Highland Glass [2022] NSWPIC 594 (26 October 2022)

58. The relevant test is set out DP Roche in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*) at [57- 58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary "as a result of" the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Orr v Rostin Pty Ltd t/as Highland Glass [2022] NSWPIC 594 -
Elliot v Franklins Pty Limited [2022] NSWPICPD 38 -
Elliot v Franklins Pty Limited [2022] NSWPICPD 38 -
Broadbent v Superior Food Group Pty Ltd [2022] NSWPIC 571 (14 October 2022)

162. In *Murphy v Allity Management Services Pty Ltd [13]* Roche DP stated:

"[57] ...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

[58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxi s Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Broadbent v Superior Food Group Pty Ltd [2022] NSWPIC 571 (14 October 2022)

162. In *Murphy v Allity Management Services Pty Ltd [13]* Roche DP stated:

"[57] ...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

[58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxi s Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Grubba v No.1 Riverside Quay Pty Ltd [2022] NSWPIC 559 (10 October 2022)

45. In *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49. Roche DP at [57] and [58] said:

"57. Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; 237 CLR 656 . The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxi s Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Hinde v Tarago Operations Pty Ltd [2022] NSWPIC 558 (07 October 2022)

102. The worker suffered a work injury and a later incident when she fell in a supermarket. Surgery was recommended after the later fall and an arbitrator in the former Workers Compensation Commission found that it was needed as a result of that fall. Roche DP said:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Hinde v Tarago Operations Pty Ltd [2022] NSWPIC 558 -
Arkwright v Arkwright Enterprise Pty Ltd [2022] NSWPIC 511 (15 September 2022)

95. Mr Arkwright's work injury does not have to be the only, or even a substantial, cause of the need for the reasonably necessary treatment. In *Murphy* , Deputy President Roche said at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] -[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Arkwright v Arkwright Enterprise Pty Ltd [2022] NSWPIC 511 (15 September 2022)

95. Mr Arkwright's work injury does not have to be the only, or even a substantial, cause of the need for the reasonably necessary treatment. In *Murphy* , Deputy President Roche said at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236;

Pyrmont Publishing Co Pty Ltd v Peters (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] -[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Canberra South Real Estate Pty Ltd v 3 Property Group 5 Pty [2022] ACTSC 217 -
Canberra South Real Estate Pty Ltd v 3 Property Group 5 Pty [2022] ACTSC 217 -
Nicolaides v Blacktown City Council [2022] NSWPIC 455 (15 August 2022)

57. At [110] Roche DP in *Wretowska* considered this question, with reference to the facts in that case, in the following terms:

"It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]). That is especially so in cases concerning a psychological injury where, in many cases, multiple events over a long period have contributed to the injury. Just because Ms Wretowska stopped work after the events of 12 and 14 November 2011, and did not have time off work before that time and did not seek treatment for emotional conditions until 14 November 2011, does not mean that those events were the whole or predominant cause of her injury. It is necessary to look at the whole of the conduct alleged to have caused the injury and to consider the evidence in light of that conduct."

Anderson v Grocery Delivery E-Services Australia Pty [2022] NSWPIC 440 -
Anderson v Grocery Delivery E-Services Australia Pty [2022] NSWPIC 440 -
Wright v MLC Wealth Limited [2022] NSWPIC 428 -
Viluan v MQ Health Pty Ltd [2022] NSWPIC 376 -
Viluan v MQ Health Pty Ltd [2022] NSWPIC 376 -
Al Hadidi v Form1 Building & Construction Pty Ltd [2022] NSWPIC 334 (28 June 2022) (Rachel Homan)

299. It is well established that a condition can have multiple causes. In *Murphy v Allity Management Services Pty Ltd* Roche DP stated [5] :

"...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Al Hadidi v Form1 Building & Construction Pty Ltd [2022] NSWPIC 334 -
Al Hadidi v Form1 Building & Construction Pty Ltd [2022] NSWPIC 334 -
Al Hadidi v Form1 Building & Construction Pty Ltd [2022] NSWPIC 334 -
Hendrix v Accuro Homecare Pty Ltd [2022] NSWPIC 315 (22 June 2022)

63. The test of material contribution on which Accuro relies was formulated for the purpose of a treatment dispute. In *Murphy* , Roche DP considered whether it was necessary that a work injury be the only cause of a need for treatment for that treatment to be considered reasonably necessary as a result of the injury. Roche DP said:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Hendrix v Accuro Homecare Pty Ltd [2022] NSWPIC 315 -
Kennedy v Boral Limited [2022] NSWPIC 312 (21 June 2022)

124. *Calman* was referred to in *McCarthy v Department of Corrective Services [6]* , where Roche DP made observations concerning the appropriate test on causation for establishing an entitlement to weekly compensation:

> "It is trite law that a loss can result from more than one cause (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; (2009) 83 ALJR 986). The authority of *Calman* is also instructive on this issue. The Court held (at [38], excluding footnotes):
>
> 'Once the appellant established that his underlying anxiety disorder was an injury within the meaning of the Workers Compensation Act , he was entitled 'to compensation ... under [that] Act' upon proof that his total or partial incapacity for work resulted from that injury. The question then for the Tribunal was whether the appellant's incapacity was causally connected to the underlying anxiety disorder. It has long been settled that incapacity may result from an injury for the purposes of workers' compensation legislation even though the incapacity is also the product of other - even later - causes. Indeed, death or incapacity may result from a work injury even though the death or incapacity also results from a later, non-employment cause. Thus, in *Conkey & Sons Ltd v Miller*, Barwick CJ, with whose judgment Gibbs, Stephen, Jacobs and Murphy JJ agreed, held that it was open to the Workers' Compensation Commission to find from the medical evidence in that case 'that the death by reason of myocardial infarction when it did ultimately occur, 'resulted' from the work-caused injury of the first infarction, even if it could not be said that the final infarction was itself caused by work-caused injury.'"

Kennedy v Boral Limited [2022] NSWPIC 312 (21 June 2022)

124. *Calman* was referred to in *McCarthy v Department of Corrective Services* [6] , where Roche DP made observations concerning the appropriate test on causation for establishing an entitlement to weekly compensation:

> "It is trite law that a loss can result from more than one cause (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; (2009) 83 ALJR 986). The authority of *Calman* is also instructive on this issue. The Court held (at [38], excluding footnotes):
>
> 'Once the appellant established that his underlying anxiety disorder was an injury within the meaning of the Workers Compensation Act , he was entitled 'to compensation ... under [that] Act' upon proof that his total or partial incapacity for work resulted from that injury. The question then for the Tribunal was whether the appellant's incapacity was causally connected to the underlying anxiety disorder. It has long been settled that incapacity may result from an injury for the purposes of workers' compensation legislation even though the incapacity is also the product of other - even later - causes. Indeed, death or incapacity may result from a work injury even though the death or incapacity also results from a later, non-employment cause. Thus, in *Conkey & Sons Ltd v Miller*, Barwick CJ, with whose judgment Gibbs, Stephen, Jacobs and Murphy JJ agreed, held that it was open to the Workers' Compensation Commission to find from the medical evidence in that case 'that the death by reason of myocardial infarction when it did ultimately occur, 'resulted' from the work-caused injury of the first infarction, even if it could not be said that the final infarction was itself caused by work-caused injury.'"

Deosa Enterprises Pty Ltd v Morcos [2022] NSWPICMP 258 -
ZWF NSW Pty Ltd v Deguara [2022] NSWPICMP 254 (17 June 2022)

49. Common law principles of causation in tort are to be applied to determine the degree of permanent impairment a worker has from a work injury. [5] It is trite that an impairment of a worker can have multiple causes. [6]

via

[6] *Calman v Commission of Police* [1999] HCA 60 at [38]-[40] (*Calman*); *ACQ Pty Ltd v Cooke* [2009] HCA 28 at [25] .

Neorczik v George Weston Foods Limited [2022] NSWPIC 286 (15 June 2022)

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Neorczik v George Weston Foods Limited [2022] NSWPIC 286 (15 June 2022)

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Longworth v Secretary, Department of Transport [2022] NSWPIC 290 -
Longworth v Secretary, Department of Transport [2022] NSWPIC 290 -
Grace v State of New South Wales (NSW Police Force) [2022] NSWPIC 280 -
Manenti v Sika Australia Pty Ltd [2022] NSWPIC 267 -
Brookes v Ewp Plant Equipment Sales Service and Spares [2022] NSWPIC 236 -
Brookes v Ewp Plant Equipment Sales Service and Spares [2022] NSWPIC 236 -
Osburg v Rajkumar Stephens t/as Beecroft Cheltenham Orthopaedic Associates [2022] NSWPIC 210 (11 May 2022)

55. The applicant referred to the decision in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49. Roche DP at [57] and [58] said:

> "57. Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; 237 CLR 656 . The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> 58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Slingsby v Allity Management Services Pty Ltd [2022] NSWPIC 188 (29 April 2022)

141. In *Wretowska*, Deputy President Roche said at [110]:

> "It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]). That is especially so in cases concerning a psychological injury where, in many cases, multiple events over a long period have contributed to the injury. Just because Ms Wretowska stopped work after the events of 12 and 14 November 2011, and did not have time off work before that time and did not seek treatment for emotional conditions until 14 November 2011, does not mean that those events were the whole or predominant cause of her injury. It is necessary to look at the whole of the conduct alleged to have caused the injury and to consider the evidence in light of that conduct."

Beeton v Woolworths Group Limited [2022] NSWPIC 156 -
Adams v Bowral Management Company Pty Ltd [2022] NSWPIC 150 (08 April 2022)

51. Whether the need for reasonably necessary treatment arises from an injury is a question of causation and must be determined based on the facts in each case as discussed in *Kooragang* and in this matter Ms Adams must establish that the injury she sustained to her left shoulder in the incident occurring on 23 April 2020 materially contributed to the need for the surgical treatment proposed by Dr Kinzel. This was confirmed by former Deputy President Roche in *Murphy v Allity Management Services Pty Ltd* [14] where he stated:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236;

Pyrmont Publishing Co Pty Ltd v Peters (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA at [25] – [27]; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the common sense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' of the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] – [55]). That is, she has to establish that the injury materially contributed to the need for surgery (see discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Mooney v White [2022] NSWPICPD 13 -
Jowett v S & R Jowett Pty Ltd [2022] NSWPIC 82 (28 February 2022)

126. In *Murphy v Allity Management Services Pty Ltd* [10] Roche DP stated:

"...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

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Jowett v S & R Jowett Pty Ltd [2022] NSWPIC 82 -
Winiarski v Bankstown City Aged Care Pty Ltd [2022] NSWPIC 72 -
Hernandez v State Rail Authority of NSW [2022] NSWPICPD 5 (17 February 2022) (Deputy President Elizabeth Wood)

152. The appellant asserts that the first respondent's submissions in relation to the onus of proof do not properly contend with his submissions in respect of the onus of proof. The appellant says he conceded that he bore the onus of proving that the disputed conditions were causally related to the accepted injuries. The appellant submits that the error raised by him is that the Member required the appellant to "disentangle" the effects of the pre-existing issues and those effects caused by the accepted injuries. The appellant asserts that this was in error, because the respondents were required to satisfy the evidentiary onus which related to the "disentangling". The appellant adds that there is no requirement for the accepted injuries to be the only causal factor, citing *Calman v Commissioner of Police* ,[99] *ACQ Pty Ltd v Cook* [100] and *Secretary, New South Wales Department of Education v Johnson* ,[101] and submits that this is a further demonstration of error on the part of the Member.

via

[100] [2009] HCA 28 .

79. This approach by Mason JA has the approval of the High Court of Australia and the NSW Court of Appeal, at least, in respect of the meaning of "results from" under the 1987 Act. As noted in *Kooragang* the court determined that the phrase "results from" requires a common sense evaluation of the causal chain by paying due regard to the question posed by the 1987 Act, with the question posed in this particular matter being whether the disputed need for cervical spine surgical treatment "results from" the injury Mr Krajewski sustained to his cervical spine in the course of his employment with Otis. It is also instructive to note comment by Deputy President Roche in *Murphy v Allity*[50] *Management Services Pty Ltd* [51] :

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA at [25] – [27]; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
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> Ms Murphy only has to establish, applying the common sense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' of the injury' (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] – [55]). That is, she has to establish that the injury materially contributed to the need for surgery (see discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Taylor v Scotts Refrigerated Logistics [2022] NSWPIC 13 (10 January 2022)

35. An injury can of course have more than one cause [20] and in these proceedings Mr Taylor has in effect alleged he sustained injury to his left shoulder (a) in the nature of an 'injury simpliciter' resulting from his duties with SRL between 19 May 2016 to date, (b) in the nature of an aggravation, acceleration, exacerbation or deterioration of a pre-existing disease resulting from his duties with SRL with a deemed date of injury of 22 June 2020 and/or (c) as a result of injury sustained to his right shoulder on 19 May 2019.

via

[20] *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] (*Cook*).

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via

[20] *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] (*Cook*).

Taylor v Scotts Refrigerated Logistics [2022] NSWPIC 13 -
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Sisko v State of New South Wales (Illawarra Shoalhaven Local Health District) [2021] NSWPIC 526 -
Clark v State of NSW (NSW Police Force) [2021] NSWPIC 530 -
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Sisko v State of New South Wales (Illawarra Shoalhaven Local Health District) [2021] NSWPIC 526 -
Quigg v Woolstar Pty Ltd [2021] NSWPIC 505 -
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Quigg v Woolstar Pty Ltd [2021] NSWPIC 505 -
ACR v Grace Worldwide Pty Ltd [2021] NSWPICPD 44 (07 December 2021) (Deputy President Elizabeth Wood)

243. It is trite law that a condition, especially a psychological condition, can have multiple causes. [66] In *Doyle* [67] Fitzgerald JA (Mason P agreeing) said that:

> "... the whole or predominant cause of [the worker's] psychological injury within the meaning of subs 11A(1) is a question of fact and degree, which involves consideration of all the factors which produced [the worker's] condition."

via

[66] *ACQ Pty Ltd v Cook* [2009] HCA 28, [25] .

Tycho Pty Ltd v Trustworthy Nominees Pty Ltd (No 2) [2021] QSC 302 (02 December 2021) (Bradley J)

26. In responding to Fraser's challenge to this part of its claim, Trustworthy relies on observations in the judgment of Mason CJ in *March v E & MH Stramare Pty Ltd* about the difficulties in applying the "but for" test "where there are two or more acts or events which would each be sufficient to bring about" the relevant loss. [3] As the High Court observed in *ACQ Pty Ltd v Cook* , "Not every lawyer has found the analysis of causation in *March v Strathmore* helpful." [4] In *ACQ* , the Court summarised the effect of the decision in this way: "there can be multiple causes of the damage suffered by a plaintiff"; and "Mason CJ was concerned merely to reject the 'but for' test as an exclusive criterion of causation." [5]

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Tycho Pty Ltd v Trustworthy Nominees Pty Ltd (No 2) [2021] QSC 302 -
Tycho Pty Ltd v Trustworthy Nominees Pty Ltd (No 2) [2021] QSC 302 -
State of New South Wales (NSW Police Force) v Nguyen [2021] NSWPICPD 34 -
Malaquin v Woolworths Group Limited [2021] NSWPIC 412 -
Malaquin v Woolworths Group Limited [2021] NSWPIC 412 -
Winters v Endeavour Energy [2021] NSWPIC 375 (28 September 2021)

103. It is accepted that a condition can have multiple causes, but the applicant must establish that the injury materially contributed to the need for the treatment. This was confirmed by Deputy President Roche in *Murphy* , where he stated:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
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Tham v Qantas Airways Limited [2021] NSWPIC 373 (23 September 2021)

105. The work injury does not have to be the only, or even a substantial, cause of the need for the reasonably necessary treatment. In *Murphy v Allity Management Services Pty Ltd* [30] , Deput y President Roche said at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25]

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Brown v Shellbelt Pty Limited [2021] NSWPIC 357 (20 September 2021)

136. The presence of pre-existing pathology at the right shoulder does not necessarily mean that the surgery now proposed does not "result from" the work injuries. In *Taxis Combined Services (Victoria) Pty Ltd v Schokman [8]* Deputy President Roche found:

"The Arbitrator was correct to observe that the presence of a pre-existing condition did not mean that the need for treatment did not "result from" the injury in the sense discussed in *Kooragang* . The appellant's submissions have ignored the fundamental principle that employers must take workers as they find them (Spigelman CJ (Bryson AJA agreeing) in *St ate Transit Authority (NSW) v Chemler* [2007] NSWCA 249 at [40] ; [2007] NSWCA 249; 5 DDCR 286).

Thus, the fact that Mr Schokman had pre-existing periodontitis and poor oral hygiene, which may have been factors in him developing peri-implantitis, does not mean that the proposed treatment of the peri-implantitis is not as a result of the injury.
...

> It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). More importantly, the injury does not have to be the only, or even a substantial, cause of the need for the proposed treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act. As the section states, and the Arbitrator acknowledged (at [55] and other places), Mr Schokman only has to establish that the proposed treatment is reasonably necessary "as a result of" the injury. On the evidence called from Dr Roessler, he easily met that test."

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Brown v Shellbelt Pty Limited [2021] NSWPIC 357 -
Brown v Shellbelt Pty Limited [2021] NSWPIC 357 -
Robinson v Technamill Plc Pty Limited [2021] NSWPIC 344 -
Bridgefoot v Sydney Catholic Schools Limited [2021] NSWPIC 335 -
Millar v Secretary, Department of Transport [2021] NSWPIC 336 -
Bridgefoot v Sydney Catholic Schools Limited [2021] NSWPIC 335 -
Bryce v State Transit Authority of NSW [2021] NSWPIC 304 (24 August 2021)

61. The guiding authority on this issue is what was said by DP Roche in *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy)* at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
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> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary "as a result of" the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Bryce v State Transit Authority of NSW [2021] NSWPIC 304 -
Bryce v State Transit Authority of NSW [2021] NSWPIC 304 -
Swindale v Bingo Industries Limited [2021] NSWPIC 303 (23 August 2021)

100. The work injury does not have to be the only, or even a substantial, cause of the need for the reasonably necessary treatment. In *Murphy*, Deputy President Roche said at [57]-[58]:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] -[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Swindale v Bingo Industries Limited [2021] NSWPIC 303 -
Connecting Families Pty Ltd v Babatunde Ejueyitsi [2021] NSWPICMP 144 (09 August 2021) (Member Marshal Douglas, Dr Brian Parsonage, Dr Julian Parmegiani)

32. The Appeal Panel also considers there is merit in the respondent's submission that going to church is not a social and recreational activity. The plurality in *Ballas v Department of Education (State of NSW) [4]* held, "the 'social and recreational activities' scale looks to the injured worker's degree of participation in such activities". The respondent went to church to pray, not for recreation or for social activity. It was a religious activity. In any event, insofar as there was social interaction between the respondent and others whilst he was church it was limited to brief conversations. That only confirms, in the Appeal Panel's view, that the respondent's impairment in social activity was moderate.

via *ACQ Pty Ltd v Cooke* [2009] HCA 28 at [25] .

Bliss v State of NSW (Illawarra Shoalhaven Local Health District) [2021] NSWPIC 269 -
Tough v Protech Pty Ltd [2021] NSWPIC 260 -
Tough v Protech Pty Ltd [2021] NSWPIC 260 -
Syed v Orrcon Pty Ltd [2021] NSWPICMP 114 -
Manera v Diversey Australia Pty Ltd [2021] NSWPIC 223 -
Manera v Diversey Australia Pty Ltd [2021] NSWPIC 223 -
Hanna v Aus Inventive Design Pty Ltd [2021] NSWPIC 210 (25 June 2021)

151. In *Taxis Combined Services (Victoria) Pty Ltd v Schokman [6]* the worker suffered extensive facial injuries in an assault at work which ultimately resulted in the loss of his four upper central incisors. At the time, the worker had pre-existing periodontal disease that was not related to the assault. The applicant was treated with a bridge supported by two implants. A number of years later the applicant was noted to have bone loss around the left side implant, which represented "early implantitis", and which required treatment. After a referral to an Approved Medical Specialist for a non-binding opinion, an arbitrator found that the work injury contributed "in a material and real way to the present condition, and therefore the need for treatment." In confirming the arbitrator's determination Roche DP commented:

> "The Arbitrator was correct to observe that the presence of a pre-existing condition did not mean that the need for treatment did not "result from" the injury in the sense discussed in *Kooragang* . The appellant's submissions have ignored the fundamental principle that employers must take workers as they find them (Spigelman CJ (Bryson AJA agreeing) in *St ate Transit Authority (NSW) v Chemler* [2007] NSWCA 249 at [40] ; [2007] NSWCA 249; 5 DDCR 286).

> Thus, the fact that Mr Schokman had pre-existing periodontitis and poor oral hygiene, which may have been factors in him developing peri-implantitis, does not mean that the proposed treatment of the peri-implantitis is not as a result of the injury.
> ...
> It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). More importantly, the injury does not have to be the only, or even a substantial, cause of the need for the proposed treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act. As the section states, and the Arbitrator acknowledged (at [55] and other places), Mr Schokman only has to establish that the proposed treatment is reasonably necessary "as a result of" the injury. On the evidence called from Dr Roessler, he easily met that test."

Hanna v Aus Inventive Design Pty Ltd [2021] NSWPIC 210 (25 June 2021)

150. It is well established in the case law that a compensable condition and need for treatment can arise from multiple causes. In *Murphy v Allity Management Services Pty Ltd* Roche DP stated [5] :

> "...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work

injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]–[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Hanna v Aus Inventive Design Pty Ltd [2021] NSWPIC 210 -
Hanna v Aus Inventive Design Pty Ltd [2021] NSWPIC 210 -
Anderson v Fulton Hogan Industries Pty Ltd [2021] NSWPIC 130 -
Anderson v Fulton Hogan Industries Pty Ltd [2021] NSWPIC 130 -
Thomas v Holcim (Australia) Pty Ltd [2021] NSWPIC 124 (18 May 2021)

89. It is accepted that a condition can have multiple causes, but the applicant must establish that the injury materially contributed to the need for the treatment. This was confirmed by Deputy President Roche DP in *Murphy* , where he stated:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] – [55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)." [23]

Thomas v Holcim (Australia) Pty Ltd [2021] NSWPIC 124 -
Hopping v E.M Utick Pty Limited [2021] NSWPIC 119 (14 May 2021)

45. A leading decision relevant to section 60 (5) of the 1987 Act in the now abolished Workers Compensation Commission was *Murphy v Allity Management Services Pty Ltd* [2015] NSWWCCPD 49 (*Murphy*), which in turn relied upon authorities including *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656 in elucidating the principles (at 57) that a condition can have multiple causes and so "the work injury does not have to be the only, or even a substantial, because of the need for the relevant treatment before the cost of the treatment is recoverable under section 60 of the 1987 Act."

Hopping v E.M Utick Pty Limited [2021] NSWPIC 119 -
Brassington v Blacktown City Council [2021] NSWPIC 78 (14 April 2021)

164. Whether the need for reasonably necessary treatment arises from an injury is a question of causation and must be determined based on the facts in each case as discussed in *Kooragang* . In this matter the applicant must establish that the injury he sustained to his left hip while working with the respondent materially contributed to the need for the proposed surgical

treatment. This requirement was confirmed by former Deputy Roche in *Murphy v Allity Management Services Pty Ltd* [102] where he stated:

> "Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA at [25] – [27]; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the common sense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' of the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] – [55]). That is, she has to establish that the injury materially contributed to the need for surgery (see discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716."

Reynolds v Edmen Pty Ltd t/as Edmen Community Staffing Solutions [2021] NSWPIC 79 (14 April 2021)

167. In *Murphy v Allity Management Services Pty Ltd* [8] Roche DP stated:

> "... a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)".

Reynolds v Edmen Pty Ltd t/as Edmen Community Staffing Solutions [2021] NSWPIC 79 -
Brassington v Blacktown City Council [2021] NSWPIC 78 -
Williamson v Coles Group Limited [2021] NSWPIC 64 (07 April 2021)

77. A condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.

Lutz v State of New South Wales (Ambulance Service of New South Wales) [2021] NSWPIC 65 (07 April 2021)

63. Roche DP also addressed the term "as a result of an injury received by a worker" in the context of s 60 of the 1987 Act in *Murphy v Allity Management Services Pty Ltd* [30] and said at [57-58]:

> "Moreover even, if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (19 73) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Clu ff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2 009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxis Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40]-[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Williamson v Coles Group Limited [2021] NSWPIC 64 -
Chapple v Woolworths Limited [2021] NSWPIC 66 -
Chapple v Woolworths Limited [2021] NSWPIC 66 -
Lutz v State of New South Wales (Ambulance Service of New South Wales) [2021] NSWPIC 65 -
Muir v CNS Marine Enterprises Pty Ltd [2021] NSWPIC 29 (17 March 2021)

91. It is uncontroversial that there can be multiple causes of a condition. In *Murphy v Allity Management Services Pty Ltd* [4] Roche DP stated:

> "[57] ...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28 ; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxi s Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Muir v CNS Marine Enterprises Pty Ltd [2021] NSWPIC 29 (17 March 2021)

91. It is uncontroversial that there can be multiple causes of a condition. In *Murphy v Allity Management Services Pty Ltd [4]* Roche DP stated:

> "[57] ...That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> [58] Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxi s Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)."

Mitchell v Ready Workforce (A Division of Chandler Macleod) Pty Ltd [2021] NSWPIC 18 -
Mitchell v Ready Workforce (A Division of Chandler Macleod) Pty Ltd [2021] NSWPIC 18 -
Turner v Holcim (Australia) Holdings Pty Ltd [2021] NSWPIC 13 -
Scales v Bunnings Group Limited [2021] NSWPIC 8 -
Scales v Bunnings Group Limited [2021] NSWPIC 8 -
WorkControl Pty Ltd v Rae [2020] NSWWCCPD 31 -
State of New South Wales v Goonan [2020] NSWWCCPD 28 -
French v Hayes [2020] NSWWCCPD 26 -
French v Hayes [2020] NSWWCCPD 26 -
Nader v A O Design Pty Ltd [2020] NSWWCCPD 19 -
Australia and New Zealand Banking Group Limited v Khullar [2020] NSWWCCPD 3 (20 January 2020) (Deputy President Michael Snell)

20. The Arbitrator referred to a passage from my decision in *Megson v Staging Connections Group Ltd* ,[24] which adopted part of what was said by Roche DP in *Murphy v Allity Management Services Pty Ltd*. [25] The principle of causation applied in *Murphy*, which the Arbitrator in the current matter described as "appropriate to the current circumstances", was the following:

> "57. Moreover, even if the fall at Coles contributed to the need for surgery, that would not necessarily defeat Ms Murphy's claim. That is because a condition can have multiple causes (*Migge v Wormald Bros Industries Ltd* (1973) 47 ALJR 236; *Pyrmont Publishing Co Pty Ltd v Peters* (1972) 46 WCR 27; *Cluff v Dorahy Bros (Wholesale) Pty Ltd* (1979) 53 WCR 167; *ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] an d [27] ; [2009] HCA 28; 237 CLR 656). The work injury does not have to be the only, or even a substantial, cause of the need for the relevant treatment before the cost of that treatment is recoverable under s 60 of the 1987 Act.
>
> 58. Ms Murphy only has to establish, applying the commonsense test of causation (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452; 10 NSWCCR 796), that the treatment is reasonably necessary 'as a result of' the injury (see *Taxi s Combined Services (Victoria) Pty Ltd v Schokman* [2014] NSWWCCPD 18 at [40] –[55]). That is, she has to establish that the injury materially contributed to the need for the surgery (see the discussion on the test of causation in *Sutherland Shire Council v Baltica General Insurance Co Ltd* (1996) 12 NSWCCR 716)." [26]

Australia and New Zealand Banking Group Limited v Khullar [2020] NSWWCCPD 3 -
Australia and New Zealand Banking Group Limited v Khullar [2020] NSWWCCPD 3 -

MPGTC Pty Limited v Jones [2019] NSWWCCPD 57 -
MPGTC Pty Limited v Jones [2019] NSWWCCPD 57 -
Wyllie-Gray v Fitness First Australia Pty Ltd [2019] NSWWCCPD 32 -
YZ (a pseudonym) v The Age Company Limited [2019] VCC 148 -
YZ (a pseudonym) v The Age Company Limited [2019] VCC 148 -
Megson v Staging Connections Group Ltd [2019] NSWWCCPD 2 -
Megson v Staging Connections Group Ltd [2019] NSWWCCPD 2 -
Florescu v Australian Meat Company [2018] VCC 2004 (29 November 2018) (Saccardo)

> "... is one of the most difficult in the law, and one about which abstract discussion is seldom valuable for courts ... " [10]
>
> *via*
>
> [10] Ibid

Florescu v Australian Meat Company [2018] VCC 2004 -
Florescu v Australian Meat Company [2018] VCC 2004 -
State of New South Wales v Ak [2018] NSWWCCPD 36 -
State of New South Wales v Ak [2018] NSWWCCPD 36 -
State of New South Wales v Butler [2017] NSWWCCPD 47 -
Lagana v Australian Retirement Partners Realty Pty Ltd [2015] NSWWCCPD 55 -
Caason Investments Pty Ltd v Cao [2015] FCAFC 94 (03 September 2015) (Gilmour, Foster and Edelman JJ)

> 188. The incorrect assumption by the parties may have arisen because, as senior counsel for the appellants submitted, the primary judge's reasons concerning causation were not expressed in clear terms. But the lack of clarity should not be attributed to the primary judge's writing style or expression. A lack of clarity of expression about the metaphysical concept of causation is almost inevitable. As the High Court of Australia said in *ACQ Pty Ltd v Cook* [2009] HCA 28; (2009) 237 CLR 656, 661 [14] , the field of causation "is one of the most difficult in the law". It is unsurprising that one of the most brilliant treatises ever published in this area, by two of the most eloquent legal philosophers ever to write in English, has been the subject of vast debate, including about the meaning of various passages. The very subject matter of her Honour's reasons - causation - meant that it was necessary for counsel to consider those reasons closely, and to reflect upon them carefully, particularly including the oral supplementary reasons delivered by her Honour. If, after careful reflection, the appellants still had doubts about whether they had been excluded from bringing a s 729(1) claim based on market based causation then they should have sought leave from the primary judge, not the Full Court, to file the Amended Consolidated Statement of Claim.

Murphy v Allity Management Services Pty Ltd [2015] NSWWCCPD 49 -
Trustees of the Roman Catholic Church for the Diocese of Parramatta v Barnes [2015] NSWWCCPD 35 (15 June 2015) (Deputy Bill P Roche)

> 53. However, the letters made it clear that Ms Barnes was making only one claim, namely, a claim for $49,087.50, being the compensation payable for a 26 per cent whole person impairment that has resulted from the three work incidents. It is open to her to make that claim and the use of the singular ("an injury") in s 66(1) does not prevent her doing so. That is because, as Mr Stanton submitted, and for the reasons discussed below, a single loss can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]).

Cargill Meat Processors Pty Ltd v Tuson [2014] NSWWCCPD 37 -
Cargill Meat Processors Pty Ltd v Tuson [2014] NSWWCCPD 37 -
Pisani v Transport Accident Commission [2014] VCC 462 -
Pisani v Transport Accident Commission [2014] VCC 462 -

Pisani v Transport Accident Commission [2014] VCC 462 -
Taxis Combined Services (Victoria) Pty Ltd v Schokman [2014] NSWWCCPD 18 -
Dewan Singh and Kim Singh t/as Krambach Service Station v Wickenden [2014] NSWWCCPD 13 -
St George Leagues Club Ltd v Wretowska [2013] NSWWCCPD 64 (26 November 2013) (Deputy Bill P Roche)

> 110. It is trite law that a condition can have multiple causes (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]). That is especially so in cases concerning a psychological injury where, in many cases, multiple events over a long period have contributed to the injury. Just because Ms Wretowska stopped work after the events of 12 and 14 November 2011, and did not have time off work before that time and did not seek treatment for emotional conditions until 14 November 2011, does not mean that those events were the whole or predominant cause of her injury. It is necessary to look at the whole of the conduct alleged to have caused the injury and to consider the evidence in light of that conduct.

DP World Sydney Limited v Lambley [2013] FWCFB 9230 -
Inman v NSW Police Force [2013] NSWWCCPD 11 (06 March 2013) (Deputy Bill P Roche)

> 220. Issues of causation are always fact-specific. Considering causation in general, and s 10 of the *Damage by Aircraft Act 1999* in particular, the High Court observed (at [14]) in *ACQ Pty Ltd v Cook* [2009] HCA 28 that "abstract discussion [about causation] is seldom valuable for courts" and it is "undesirable to deal with possible applications of the legislation which are not essential for the decision". Thus, it was speculative and unhelpful for the Senior Arbitrator to assert that the appellant's reaction might have been the same had Ms AQ obtained a weapon elsewhere, or taken her life by some other means.

Shore v Tumbarumba Shire Council [2013] NSWWCCPD 1 (07 January 2013) (Acting Bill P Roche)

> 46. In the present case, there was no dispute that Mr Shore received a psychological injury as a result of the events on 8 July 2010, or that his employment was a substantial contributing factor to that injury. It is trite law, however, that a condition can have more than one cause (*ACQ Pty Ltd v Cook* [2009] HCA 28; 237 CLR 656 at [25] and [27]). Given the way Mr McManamey argued the case at the arbitration, and given the (albeit unsatisfactory) pleadings, there can be no doubt that there was a live issue as to whether the transfer was the whole or predominant cause of Mr Shore's accepted psychological injury. That issue could not be properly determined by saying that the claim, as defined by the Application, related to 8 July 2010 and the meeting on that day.

Arnold v Holiday Coast Transportation Services Pty Ltd [2012] NSWWCCPD 13 (13 March 2012) (Deputy Bill P Roche)

> 106. It may be that Mr Arnold's inability to work more than his current hours is the result of several concurrent conditions, some work-related and some not. Even if that is so, if, regardless of his other medical conditions, his right knee injury is restricting him to his current hours, he may still be entitled to the full difference between his probable earnings but for injury and his actual earnings. While a worker is only entitled to compensation for so much of his or her loss as has resulted from the injury (*Williams v Metropolitan Coal Co Ltd* [1948] HCA 8; 76 CLR 431 per Starke J at 444), a loss can have more than one cause (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27] ; 237 CLR 656 ; *Calman v Commissioner of Police* [1999] HCA 60 at [38]; 73 ALJR 1609; *Conkey & Sons Ltd v Miller* (1977) 51 ALJR 583). The Arbitrator failed to consider these principles.

New South Wales Police Service v Shelley [2011] NSWWCCPD 57 -
Ball v Eldarin Services Metro Pty Ltd [2011] VCC 500 -
Ball v Eldarin Services Metro Pty Ltd [2011] VCC 500 -
Lauda Enterprises Pty Ltd v Akkanen [2010] NSWWCCPD 91 -
McCarthy v Department of Corrective Services [2010] NSWWCCPD 27 -

Menzies Property Services Pty Ltd v Murialdo [2009] NSWWCCPD 162 -
Walker v Clough Property Claremont Pty Ltd [2009] WASC 367 -
Walker v Clough Property Claremont Pty Ltd [2009] WASC 367 -
Amity Group Pty Ltd v Yusuf [2009] NSWWCCPD 152 (01 December 2009) (Deputy Bill P Roche)

> 108. Even if Ms Yusuf's marital and other personal problems have contributed to her depression, that does not prevent a finding that her depression has resulted from her work injuries. It is trite law that a condition can have more than one cause (*ACQ Pty Ltd v Cook* [2009] HCA 28 at [25] and [27]). What is required is satisfaction that, on the balance of probabilities and as a matter of common sense, the condition complained of has resulted from the injury (*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452 ('*Kooragang*')).

Mobbs v Kain [2009] NSWCA 301 (16 October 2009) (Giles, McColl and Macfarlan JJA)
ACQ Pty Ltd v Cook [2009] HCA 28 ;(2009) 83 ALJR 986
Albert v Nominal Defendant

Mobbs v Kain [2009] NSWCA 301 -
Caltex Refineries (Qld) Pty Ltd v Stavar [2009] NSWCA 258 (31 August 2009) (Allsop P at 1; Basten JA at 149; Simpson J at 242)

> *192 ACQ v Cook* [2008] NSWCA 161; 72 NSWLR 318 (Campbell JA, Beazley and Giles JA agreeing) was upheld by the High Court in *ACQ Pty Ltd v Cook* [2009] HCA 28 (a judgment handed down after argument in the present case) without comment on the reference to duty, the case turning on questions of causation.

Caltex Refineries (Qld) Pty Ltd v Stavar [2009] NSWCA 258 -
ACQ Pty Ltd v Cook [2008] NSWCA 161 -
Cook v Aircare Moree Pty Ltd [2007] NSWDC 164 -