

## Stanley Black & Decker Australia Pty Ltd

### Resale price maintenance notification: supplementary submission

#### 1. Introduction

Stanley Black & Decker Australia Pty Ltd (**SBD**) has set out in this document its response to the third party submissions lodged with the ACCC in response to its resale price maintenance notification (**Notification**).

#### 2. Total Tools submission

Total Tools submission notes its general agreement with the matters forming the basis of SBD's notification. Total Tools has also sought clarification as to a number of matters. SBD has set out its response on those matters below.

First, Total Tools has asked whether SBD will have the same invoice price for all dealers. SBD confirms that the invoice price which will be used to set the minimum advertised price (**MAP**) will be the same for all dealers. While there will of course be variations in the actual price paid by different dealers, the invoice price and MAP will be the same for all dealers.

Accordingly, no dealer will be disadvantaged by being unable to price match a competitor who receives a lower invoice price from SBD.

Second, Total Tools has raised a question as to whether dealers who elect not to participate in promotion would be able to advertise DEWALT products below the Promotional MAP (as described in paragraph 2.2 of the Notification). SBD confirms that the Promotional MAP will only apply in circumstances where the Promotional MAP is below the usual MAP for the relevant product.

In relation to how a dealer may qualify to participate in a promotion and what other conditions may apply, SBD is not proposing to make any other changes to its current practices for promotions and dealer participation in those promotions.

#### 3. Bunnings submission

SBD claims confidentiality over sections of its response to the Bunnings' submission as marked below.

Bunnings questions the public benefits of the Notification and alleges that it will result in public detriment in the form of a reduction of intra-brand price competition for DEWALT products, consumers being likely to pay higher retail prices for DEWALT and lower incentives for retailers to invest in cost saving initiatives. SBD disagrees with the Bunnings' submission.

SBD's position is that the Notification will promote competition, including by levelling the playing field and supporting the smaller, independent dealers who often struggle to compete against larger dealers such as Bunnings, Sydney Tools and Total Tools.

#### Notification will not result in a 'chilling of price competition in the market

Bunnings' claims the Notification risks "chilling price competition" in the market for high-quality power tools, attachments and accessories. The Notification does not risk having this effect having regard to both the scope of the Notification and the very strong inter-brand competition.

### Scope of the Notification

First, the scope of the Notification is limited. SBD's proposal will not eliminate advertised price competition for DEWALT products. Under the notification, the MAP will set an advertising floor price but this will be set at a price that is below SBD's RRP. Accordingly, the notified conduct will still allow dealers who wish to compete on advertised price by advertising below RRP to do so. As a result, DEWALT expects that there still will be competition on advertised prices for DEWALT products and that retailers like Bunnings will continue to monitor and respond to competitor's advertised price changes.

Further, the Notification also does not prevent in-store discounting.

### Strong intra-brand competition will continue

Second, there is very strong inter-brand competition in the power tool market and there will continue to be such strong competition if the Notification is allowed to stand. The Notification will have no impact on that competition.

While SBD estimates that it is the third largest power tool supplier in the market, both Techtronic and Makita are much larger suppliers - [REDACTED]

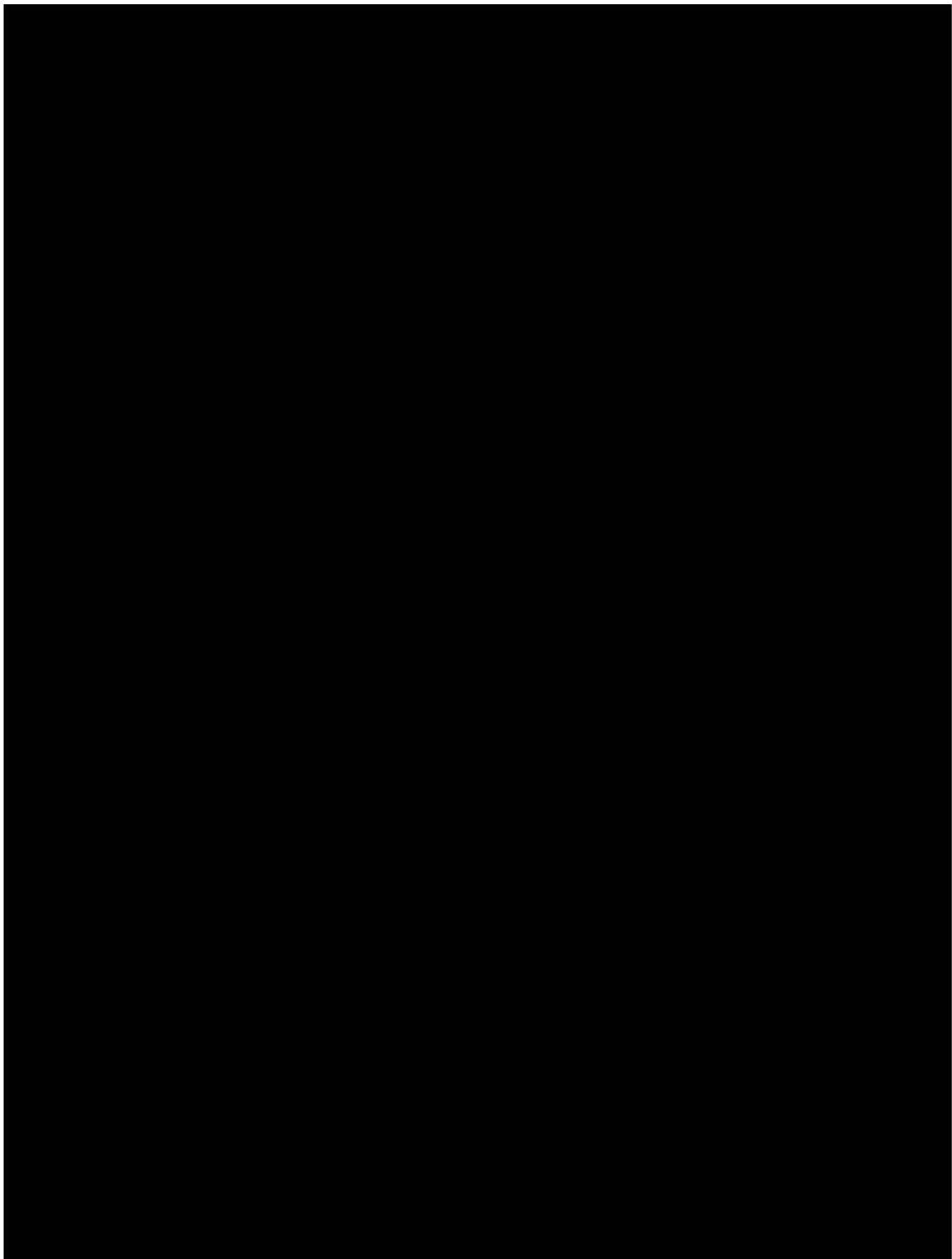
[REDACTED] If DEWALT products are not price competitive with Milwaukee and Makita, SBD will lose sales, market share and as a consequence ranging in dealers. Further, there are other very competitive brands in the market supplied by major global power tool manufacturers. These include Bosch, Metabo, Hikoki, Festool, Fein and AEG (which is sold exclusively by Bunnings). These brands will all continue to compete strongly for sales regardless of the Notification.

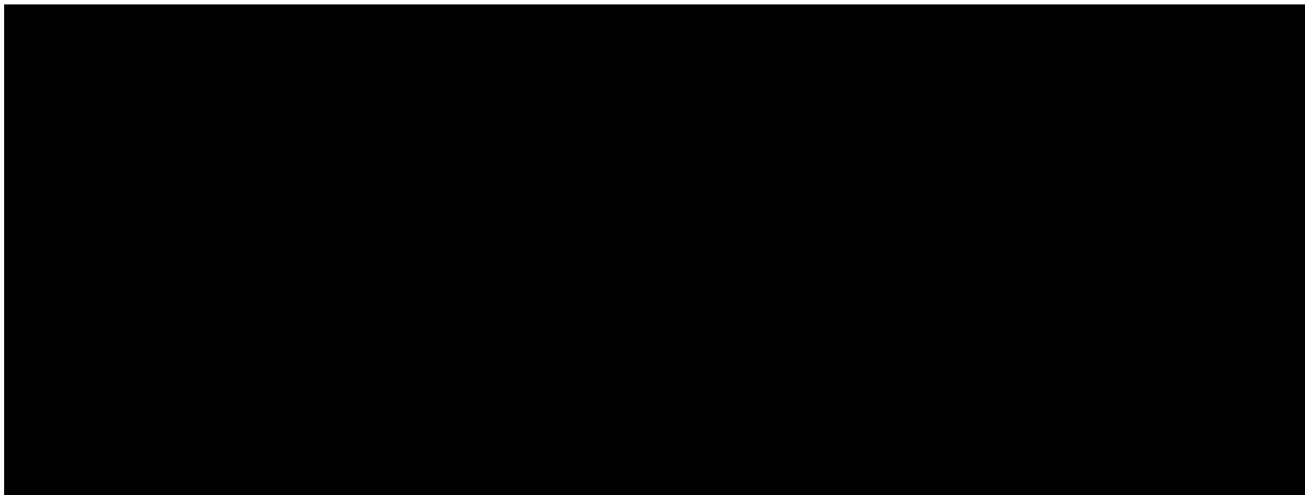
It is relevant to note that Festool, with its Notification, continues to compete on price in the market. SBD believes that it has grown its share since the Notification but even with the Notification it has only been able to do so by remaining competitive on price. While the Notification has led to improved service from Festool dealers (including more dealers ranging Festool and dealers with Festool increasing the range they carry and floor space devoted to Festool), it must still be competitive on price. Accordingly, there is no evidence that this Notification has overall chilled price competition in the market.

[REDACTED]

The strong inter-brand competition between power tools manufacturers and distributors can be seen in the extent of manufacturer sponsored redemptions in the market. The attached document contains some current examples. As can be seen from the attached, there are multiple offers by all major brands including Milwaukee, Makita, Bosch, Metabo, Hikoki, Festool and AEG offered through a range of dealers. These offers drive price competition in the retail market between brands of power tools as well as between dealers. This activity will not be impacted by the Notification.

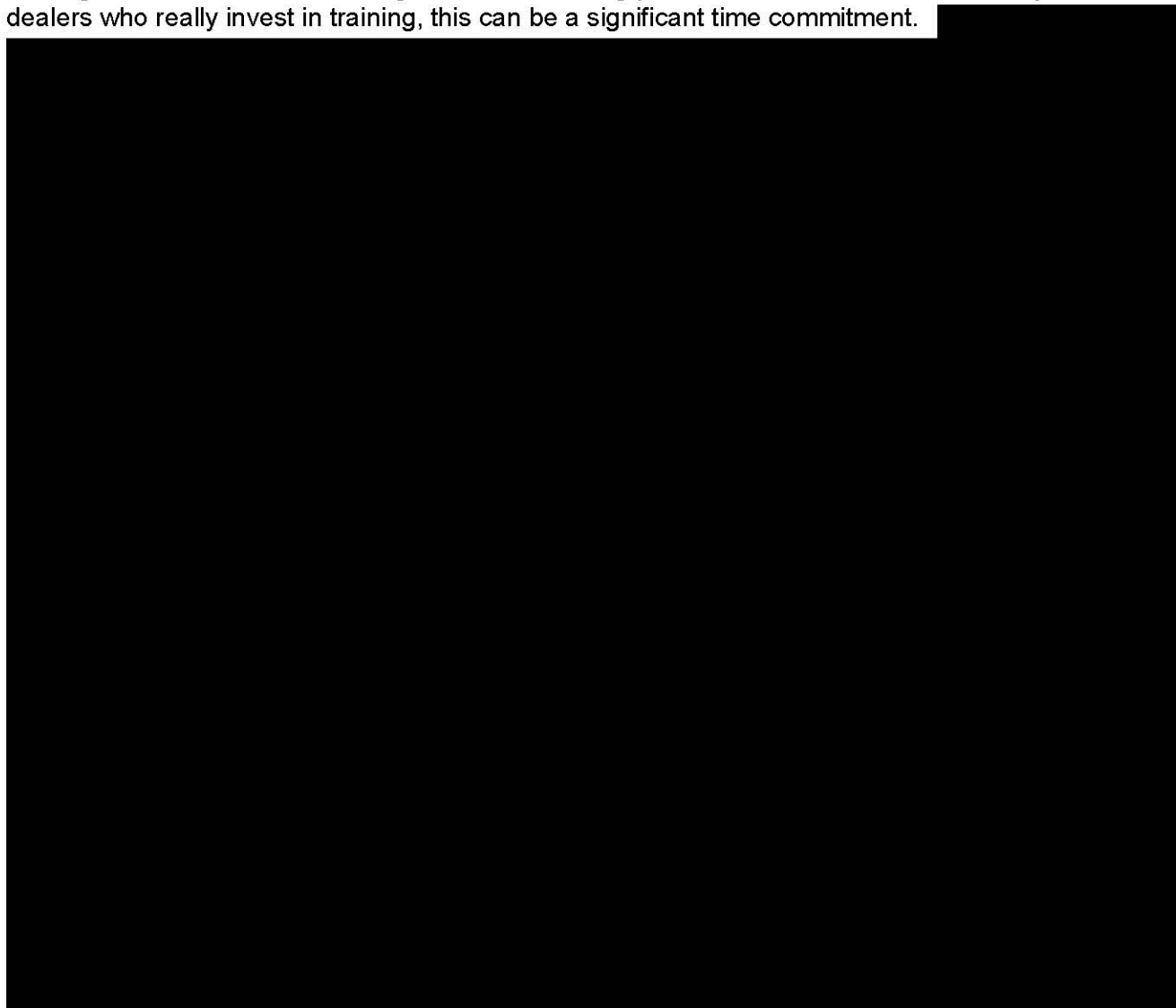
[REDACTED]





### **Training and education investment**

The statement in the Bunnings' submission that training does not impose additional direct costs of dealers is incorrect. While SBD does not charge dealers for training, they are required to invest in this training by making employees available to attend training sessions. Having employees attend training sessions rather than being on the floor selling products does cost a dealer money. For the dealers who really invest in training, this can be a significant time commitment.



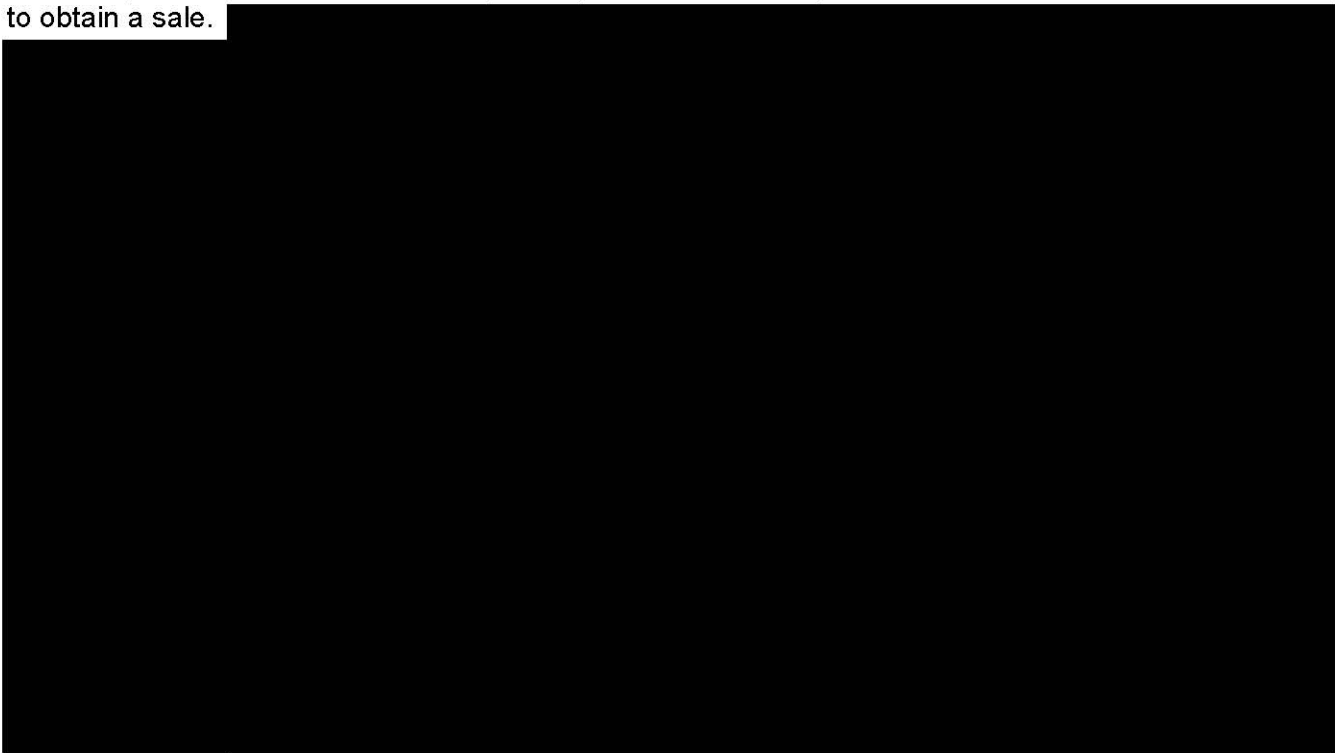
#### **4. Techtronic Industries submission**

Techtronic Industries has made a submission opposing the Notification. Techtronic Industries is the largest supplier of power tools in the Australian market.

The submission appears to be made on behalf of the Consumer Division of Techtronic Industries, which division does not include Techtronic's Milwaukee brand being its major professional power tools brand.

SBD notes that of the Techtronic Industries' key power tools brands listed in its submission, namely AEG and Ryobi, are sold exclusively through Bunnings (as are the Hart and Kango brands, although in other product categories). The issues faced by SBD and set out in the Notification are not experienced by Techtronic Industries in relation to these brands as a result of this exclusivity.

SBD disagrees that the MAP will restrict dealers from discounting DEWALT products in store. It is SBD's experience that dealers do negotiate price in-store with potential customers and will discount to obtain a sale.



SBD also notes for the record that it fundamentally disagrees with the unsubstantiated assertions by Techtronic Industries regarding the quality of DEWALT products. It is well accepted in the market, including by dealers and end-user customers, that DEWALT is a premium, trade quality brand. SBD can provide technical specifications to demonstrate this if required.

#### **Other clarifications**

SBD confirms that the Notification does not apply to hand tools.

Examples of manufacturer / distributor driven price competition

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**Makita Paslode Milwaukee DEWALT BOSCH FESTOOL**

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SHOP BY

Category ▾

Voltage ▾

18V (4)

Price ▾

\$ 475 — \$ 399

Drag to indicate price range

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17 Items

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Festool 36L 1200W Dust Extractor CT36EHEPA FS 574936

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Festool ETS 150/5 EQ Random Orbital Sander Plus 575062

**\$675**

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Festool 720W 65mm Planer Plus EHL65EPLUSAUS

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Festool ETS 150/3 EQ Random Orbital Sander Plus 575029

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Festool PF 1200 Aluminium Milling Machine Plus FS 575003

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Festool 1200W Sliding-Compound Mitre Saw KS 60 561695

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**\$1229**

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Festool ETS 150/3 E Random Orbital Sander 575028

**\$615**

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# Christmas Catalogue

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ENDS 25TH DECEMBER 2019

Makita HiKOKI Milwaukee DEWALT Paslode FESTOOL

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Major Brands Offers

## SPECIAL DEALS

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Prices as Marked. Limited Time Only



**FREE**  
Makita DLX8034TX1 18V 5.0Ah Li-ion Brushless Cordless 8pce Combo Kit

Item ID: W144472  
Model: DLX8034TX1

\$1499.00



Makita DLX2283ST1 18V 5.0Ah Li-ion Cordless Brushless 2pce Combo Kit

Item ID: W153069  
Model: DLX2283ST1

\$279.00



**FREE**  
Makita DLX3063T 18V 5.0Ah Li-ion Cordless Brushless 3pce Combo Kit

Item ID: W148343  
Model: DLX3063T

\$799.00



Makita DUB184ST 18V 5.0Ah Li-ion LXT Brushless Cordless Blower Combo Kit

Item ID: W155161  
Model: DUB184ST

\$299.00



**FREE**  
Milwaukee M18FDD2A 421R 12V Li-ion Cordless 2pce Combo Kit



**FREE**  
Milwaukee M18FDD4C2 503R 18V Li-ion Cordless 4pce Combo Kit



**FREE**  
Milwaukee M18FDD10R2 603R 18V Li-ion Cordless 10pce Combo Kit



**FREE**  
Milwaukee M18FDD8A2 503R 18V Li-ion Cordless 8pce Combo Kit



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Bonus via Redemption

Bonus In Store

See Festool website for terms & conditions. Offers valid during promotional period 1/10/2019 - 27/12/2019

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**FREE 3 x 5Ah BATTERIES** WITH SELECTED 10pc and above KITS

\*See Makita.com.au/redemptions for claims, full terms & conditions. Offer available 1st October - 31st January 2020



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- ▶ Milwaukee Redemptions (4)
- ▶ Dewalt Redemptions (37)
- ▶ Metabo Redemptions (24)
- ▶ Festool Redemptions (18)

Price



Brand

- Dewalt (37)
- Makita (75)
- Metabo (24)
- Milwaukee (4)
- Festool (18)

Product Type

- Angle Grinder (2)
- Circular Saw (1)
- Drill (2)
- Impact Drill (5)
- Blower (5)
- Cold Saw (1)
- ▶ View 28 More

Voltage

- 12V (10)
- 18V (83)
- 36V (18V x 2) (34)
- 54V (10)

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- Tool Only (40)
- Batteries & Charger (91)



Redemption Offers



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<p><b>GET BONUS</b> INCLUDES 18V LITHIUM ION BATTERY</p> <p><b>AEG</b></p> <p><b>\$379</b></p>	<p><b>GET BONUS</b> INCLUDES 18V LITHIUM ION BATTERY</p> <p><b>AEG</b></p> <p><b>\$329</b></p>	<p><b>GET BONUS</b> INCLUDES 18V LITHIUM ION BATTERY</p> <p><b>AEG</b></p> <p><b>\$299</b></p>	<p><b>GET BONUS</b> INCLUDES 18V LITHIUM ION BATTERY</p> <p><b>AEG</b></p> <p><b>\$299</b></p>	<p><b>GET BONUS</b> INCLUDES 18V LITHIUM ION BATTERY</p> <p><b>AEG</b></p> <p><b>\$329</b></p>

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M12SAL-0 (TOOL ONLY)

**BUY**  
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POWER PACK 6A2  
M18FPP6A2-503B

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GRIP JIGSAW  
M18FBS-0 (TOOL ONLY)

**BUY**  
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BACKPACK VACUUM  
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**REDEEM**  
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