



[Schedule A]

## PFAS CLASS ACTION

### Notice to Register in the Class Action or Opt Out

#### WHY IS THIS IMPORTANT?

**This is an important notice approved by the Federal Court of Australia because you are likely to be a class member in the PFAS Class Action in the Jervis Bay area.**

As explained below, you may do one of three things in response to this notice:

1. **Opt out** of the class action by 31 May 2021 4:00pm (Sydney time) and lose a right to seek money compensation through the class action (but keep your right to seek money compensation by making a claim yourself against the Commonwealth);
2. **Sign up** to the class action; or
3. **Do nothing.**

#### A. SOME THINGS YOU SHOULD KNOW ABOUT THE CLASS ACTION

*What is the class action about?*

1. The class action seeks compensation (that is, money) for the members of the Wreck Bay community who have suffered loss due to contamination as a result of the Commonwealth's historical use of aqueous film forming foam (AFFF), containing per- and poly-fluoroalkyl substances (**PFAS**) at the nearby Jervis Bay Range Facility and HMAS Creswell. You are a class member if, as at 1 September 2016:
  - a. you had an interest in the land granted to the Wreck Bay Aboriginal Community Council within the Jervis Bay Territory (**Wreck Bay Land**), which is detailed in the map at Annexure A to this notice; or
  - b. you were a registered member of the Wreck Bay Aboriginal Community Council (**WBACC Member**); or
  - c. you were a spouse or descendant of a WBACC Member.
2. The class action is against the Commonwealth of Australia. The claimed compensation includes the diminution in property values as a consequence of PFAS contamination as well as compensation for inconvenience, distress and the constraints on the practice of traditional Aboriginal culture suffered as a consequence of PFAS contamination.



3. The class action is not in respect of any personal injury claims that class members may have against the Commonwealth in respect of PFAS contamination.
4. The solicitors running the case are Shine Lawyers (**Shine**).
5. The Court has ordered that settlement talks (called a mediation) are to take place in the class action, but the timing for the settlement talks has not yet been set.

*Is a class member liable for any costs and charges?*

6. Class members are not, and will not be, liable for any “out of pocket” legal costs by being class members. The costs of running the class action are being borne in the first instance by Shine.
  - a. If the class action is **successful** (that is, if money compensation is recovered), the Court will be asked to distribute the legal costs, from the money recovered, fairly among all persons who have benefitted from the class action. The effect of any such order, if made, would be that all class members who benefit will contribute to the legal costs.
  - b. If the class action is **unsuccessful**, class members will have no liability to pay any legal costs.

## **B. YOUR THREE OPTIONS**

*Option 1 – Opt out and cease to be a class member*

7. Class members who opt out will not be bound by the outcome of the class action and will not receive any money from the class action if it wins or settles. If you opt out, you will no longer be a party of the class action against the Commonwealth but you can make your own financial claim against the Commonwealth.
8. To opt out of the class action you need to complete the below “Opt out notice” and then return it to the Federal Court of Australia at the address on the form by no later than 4:00pm (Sydney time) on 31 May 2021.
9. If you opt out, you may make a financial claim against the Commonwealth in writing (for example, by using the claim form available at: <https://www.defence.gov.au/Environment/PFAS/FinancialClaims.asp>)

*Option 2 – Sign up to the class action*

10. Class members may sign up by providing their details and information about their claims to Shine. If you do this you will become a Registered Class Member. This means it is possible for the claims of the class members to be more specifically considered at the settlement talks, rather than the lawyers for each side making assumptions about the claims on the basis of information they can get from other sources.



11. You do not have to sign up to remain a class member. However, it is likely that at some point you will need to register your interest to participate anyway – either to get money in any settlement, or (if there is no settlement) to take further steps to bring your claim forward following the initial trial of issues that are common as between the applicants’ claims and any claim you may have.
12. Even if you do not become a Registered Class Member, as noted in paragraph 6 above, if the class action is successful the court may make an order requiring you to contribute to the legal costs incurred by Shine from the settlement amount.
13. If you wish to sign up, it will assist the lawyers for each side in being ready for settlement talks that eventuate for you to register by 31 May 2021.
14. If you want to sign up, you can do so by submitting claim details to Shine with the results being that you will be a Registered Class Member.
15. If you want to sign up as a Registered Class Member, what you need to do is register:
  - Online – [www.shine.com.au/wreckbay](http://www.shine.com.au/wreckbay)
  - Or
  - By email - [wreckbay@shine.com.au](mailto:wreckbay@shine.com.au)
  - Or
  - By telephone – 1800 325 172
16. You do not need to sign a lawyer’s retainer with Shine. However, as noted in paragraph 6 above, if the class action is successful the court may make an order requiring you to contribute to the legal costs incurred by Shine from the settlement amount.
17. A number of group members have already registered with Shine. If you have already registered you do not need to register again.

*Option 3 – Do nothing*

18. Class members who do not:
  - a. opt out by 31 May 2021 (using Option 1 above); or
  - b. sign up (using Option 2 above),will remain class members.

If you take this option you will be an Unregistered Class Member but, as noted above, at some point Unregistered Class Members will need to register to get any money out of any settlement (if that happens) or run their individual case following judgment on common issues. At the end of the class action, an order may be made by the Court



requiring Unregistered Class Members who benefit to contribute to the costs incurred by Shine from the settlement amount (see paragraph 6 above).

**C. THREE IMPORTANT THINGS TO NOTE**

19. Firstly, this is not a scam. You can check (and get copies of the relevant documents about the class action) online at [www.shine.com.au/wreckbay](http://www.shine.com.au/wreckbay) or request them by telephone on 1800 325 172.
20. Secondly, as explained above, signing up to the class action (by any mode) will still assist Shine to consider your details and circumstances in order to consider and advance your claim specifically for any settlement talks that may occur in the future.
21. Thirdly, if there is anything of which you are unsure or you do not want to speak with Shine (or you want to understand their involvement better), you should get legal advice from your own solicitor.



### Annexure A



<p>Paper Size A3</p> <p>0 0.5 1 1.5 2</p> <p>Kilometres</p> <p>Map Projection: Transverse Mercator Spheroid: GDA 1984 Grid: GDA 1984 MGA Zone 56</p>	<p>LEGEND</p> <ul style="list-style-type: none"> <li><span style="border: 1px dashed yellow; display: inline-block; width: 10px; height: 10px;"></span> Investigation Area Extent</li> <li><span style="border: 1px dashed green; display: inline-block; width: 10px; height: 10px;"></span> HMAS Creswell Site Boundary</li> <li><span style="border: 1px solid black; display: inline-block; width: 10px; height: 10px;"></span> Jervis Bay Range Facility Boundary</li> <li><span style="border: 1px solid blue; display: inline-block; width: 10px; height: 10px;"></span> State Boundary</li> <li><span style="border: 1px solid purple; display: inline-block; width: 10px; height: 10px;"></span> 403 Lands</li> <li><span style="border: 1px solid lightgreen; display: inline-block; width: 10px; height: 10px;"></span> Booderee National Park</li> <li><span style="color: purple;">■</span> Botanic Gardens</li> <li><span style="color: magenta;">■</span> Territory Land</li> <li><span style="color: cyan;">■</span> Drainage Areas</li> <li><span style="color: blue;">■</span> Water Bodies</li> <li><span style="color: cyan;">—</span> Major Waterways</li> <li><span style="color: lightblue;">—</span> Minor Waterways / Drainage Lines</li> <li><span style="color: grey;">—</span> Roads</li> </ul>	<p>Department of Defence Jervis Bay Range Facility &amp; HMAS Creswell Ecological Risk Assessment</p> <p>Job Number   21-26171 Revision   0 Date   09 May 2019</p> <p>Site Location</p> <p>Figure 1-1</p>
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Data sources: Imagery: Aerial and Property Information; (Electronic: cadastre); Streets, Waterways, Contours: 100M UTM 2015 57026. Created by mcrister



**FEDERAL COURT OF AUSTRALIA  
DISTRICT REGISTRY: NEW SOUTH WALES  
DIVISION: GENERAL**

**No. NSD 70 of 2021**

**WRECK BAY ABORIGINAL COMMUNITY COUNCIL & ANOR**

Applicants

**COMMONWEALTH OF AUSTRALIA**

Respondent

To: The Register

Federal Court of Australia

New South Wales District Registry

Level 17, Law Courts Building, Queens Square, Sydney NSW 2000

**OPT OUT FORM**

**The Court has ordered that any person wishing to opt out of this class action must do so by 31 May 2021.**

The person named below, as a class member in this representative proceeding, gives notice under section 33J of the *Federal Court of Australia Act 1976* (Cth), that the person is opting out of the proceeding.

Name of class member	
Postal address of class member	
Details of property or properties the subject of the proceedings (if this is different from the postal address above)	
Telephone contact	
Email address	

If you are signing as the solicitor or representative of the class member:





Person completing this form	
Authority of person completing	
Postal address of person completing this form	
Telephone contact	
Email address	

Date:

Signed by (print name)

Class member / Lawyer for class member / Class member representative