**ANNEXURE A – NOTICE**

**OPT-OUT NOTICE**

**SOUTH COAST CULTURAL FISHING CLASS ACTION**

**THIS IS AN IMPORTANT NOTICE ISSUED TO YOU BY THE FEDERAL COURT OF AUSTRALIA**

**SOME IMPORTANT THINGS YOU SHOULD KNOW ABOUT THIS NOTICE:**

It is about the SOUTH COAST CULTURAL FISHING CLASS ACTION.

This has been sent to you because you might be eligible to be part of this class action.

This class action is to assist you to claim for loss you may have suffered.

We sincerely apologise if this notice has been sent to a relative who has passed away.

As explained in more detail on the following pages, you may do one of three things in response to this notice:

1. **Sign up** to the class action;

**OR**

1. **Opt-out** of this class action before 5:00pm AEDT on 9 December 2024.This means you will not be part of this case and you will lose a right to receive any compensation out of the class action (but keep your right to try to get some compensation in an action you may start yourself),

**OR**

1. **Do nothing**.

**1. Why are you getting this notice?**

Kevin Mason, Wayne Carberry and Jason Davison have brought a case in the Federal Court against the State of New South Wales on behalf of all members of the South Coast Peoples who have been directly or indirectly affected by the policing and prosecutions of cultural fishing on the South Coast of New South Wales. Mr Mason, Mr Carberry and Mr Davison are called the “Applicants” in this case.

The case is called a “class action” because the Applicants are bringing the case for South Coast Peoples and their family members and others suffering cultural harm who have been affected by the policing and prosecutions of cultural fishing by Fisheries officers between 1 January 1994 and 27 June 2023. The class action alleges that the actions of the State in policing and prosecuting cultural fishing on the South Coast breached the racial discrimination laws.

The State is defending the case.

The Applicants’ lawyers are JGA Saddler, and they are helping them run the case.

A litigation funder called CASL (or “**the funder**”) is currently paying the costs of bringing this class action against the State in return for repayment of those costs, plus a commission if the class action is successful.

The Federal Court has ordered that this notice be sent to people who might be affected by the class action. You should read this notice carefully as it may affect your legal rights.

**2. What do you need to do to be part of the class action?**

You are automatically part of the class action if:

* 1. you are a member of the South Coast Peoples and between 1994 and 2023:
		1. you were personally subjected to enforcement or prosecution by Fisheries while practising cultural fishing; or
		2. you suffered cultural harm or loss as a result of the above including being unable to learn or participate, enjoy traditional diet or otherwise restricted your cultural practices,

**OR**

* 1. you are a family member of someone who is a member of the South Coast Peoples and who was personally subjected to enforcement or prosecution by Fisheries while practising cultural fishing between 1994 and 2023, and you have experienced harm or hurt as a direct result of the enforcement or prosecution of that other person.

All of these people are called “group members”.

To help you work out if you are a group member, when we say “South Coast Peoples”, we mean the peoples who have an ancestral connection to the South Coast, including persons who identify as peoples of the Yuin and Tharawal Nations and Groups, including the following:

1. Wandi Wandian;
2. Jerinja;
3. Bidewal;
4. Walbunja;
5. Allellyin;
6. Brinja-Djuwin;
7. Mankata-Djuwin;
8. Djiringanj;
9. Wodi Wodi (Tharawal);
10. Murramarang; and
11. Gweagal (Tharawal).

If you want to continue to be part of the case you don’t need to do anything. You will be a group member and part of the case unless you tell the Federal Court you don’t want to be part of it. But if you give your information to JGA Saddler by signing up, it will help the Applicants to run the case on your behalf. You may give your information to JGA Saddler by following the instructions in **Option 1** below.

You don’t have to pay anything upfront to be part of the case. You will only have to pay something if at the end of the case you get money from it. If the State pays you money, you may need to pay CASL a commission from your payment of up to 25%, plus your share of what it costs to run the case. You will get paid the rest of the money.

Choosing to remain part of the case means that you will be ‘bound’ by the result whether it wins, loses, or settles. Being ‘bound’ means that you will not be able to raise the same claims in any other proceedings against the State, even if you are not happy with the outcome.

Remaining part of the class action will mean that, whatever the result in the class action, it is likely that you will lose any right you might have had to bring the same or similar claims in an individual case.

**3. How can I get more information about the class action?**

This notice tells you where to find more information about the case below – you can call JGA Saddler, look it up online on one of the websites below, or come to one of the Information Meetings and speak to someone in person. A list of places and dates of meetings is attached to this notice.

**4. What do you need to do if you don’t want to be part of the class action?**

If you don’t want to be part of the case you need to fill out a form to tell that to the Federal Court. This is called “opting out” and the form you must fill out to not be part of the case is called an “Opt Out Notice”.

You may opt out of the class action by following the instructions in **Option 2** below.

***YOUR THREE OPTIONS***

***OPTION 1 – SIGN UP TO THE CLASS ACTION***

To sign up, you need to provide your details and information about your claim to JGA Saddler. You can do this by:

1. Attending an Information Meeting.
2. Ringing JGA Saddler on 02 9052 7557.
3. Go to the website that JGA Saddler has established for the class action at www.culturalfishingclassaction.com.au.

Group members who sign up will not be liable for any “out of pocket” legal costs by remaining a group member in this class action.

Although you do not have to sign up now (see Option 3 below), at some point you will need to register your interest with JGA Saddler – either to get money in any settlement or to take further steps to progress your claim.

If you have already signed up, you do not need to sign up again.

By signing up, you are not being asked to enter into any contract with JGA Saddler or the Funder. At the end of the class action, the Applicants or the Funder intend to make an order for everyone who benefitted from the class action to contribute to the costs of the action out of any money they receive.

***OPTION 2 – OPT OUT AND CEASE TO BE A GROUP MEMBER***

Group members who do not want to be a part of the case must “opt out”. This is done by filling out a form. If you choose to opt out:

1. you will not be affected by the outcome of the class action and will not receive any money from the class action if it is successful; and
2. you will be able to bring your own individual claim against the State, if you issue your own Court proceedings.

You should seek legal advice before opting out. Opting out is serious – you should not do it unless you understand what it means.

To opt out, you need to fill out a form to tell the Federal Court you are opting out. You can get a copy of the form by:

1. Attending an Information Meeting and asking JGA Saddler for a copy;
2. Ringing JGA Saddler on 02 9052 7557 and asking for a copy; or
3. Go to the website for the class action at www.culturalfishingclassaction.com.au.

Opt out forms must be sent directly to the New South Wales Registry of the Federal Court of Australia before 5:00pm AEDT on 9 December 2024.

***OPTION 3 – DO NOTHING***

Group members who do not sign up or opt out will remain as group members and await the outcome of the class action. But at some point those group members will need to register to receive money from any settlement if the class action is successful.

**OTHER IMPORTANT THINGS TO BE AWARE OF**

*First*, this is not a scam. You can check (and get further information) by:

1. visiting the Federal Court of Australia website for the class action at <https://www.comcourts.gov.au/file/Federal/P/NSD274/2024/actions>;
2. visiting the website that JGA Saddler has established for the class action at www.culturalfishingclassaction.com.au; and/or
3. contacting JGA Saddler on 02 9052 7557 or by emailing southcoast@jgasaddler.com.au

*Second*, if you sign up, JGA Saddler can try to work out how much all the claims in the class action are worth if the case succeeds. Your information will help the Applicants to try to negotiate the best settlement possible on your behalf.

*Third*, if there is anything which you are unsure of and you do not want to speak with JGA Saddler, you should get legal advice from an independent lawyer.

**INFORMATION MEETING SCHEDULE**

|  |  |  |  |
| --- | --- | --- | --- |
| **Town** | **Date** | **Time** | **Location** |
| Bega  | Monday, 18 November 2024 | 2:00pm and 5:00pm | Bega Valley Commemorative Civic Centre, Zingel Place, Bega NSW 2550 |
| Narooma  | Tuesday, 19 November 2024 | 2:00pm and 5:00pm | Club Narooma, 88 Princes Highway, Narooma NSW 2546 |
| Batemans Bay  | Wednesday, 20 November 2024 | 2:00pm and 5:00pm | Bay Pavilions, 12 Vesper Street, Batemans Bay NSW 2536 |
| Ulladulla  | Thursday, 21 November 2024 | 2:00pm and 5:00pm | Ulladulla Civic Centre, 81B Princes Highway, Ulladulla NSW 2539 |
| Nowra  | Friday, 22 November 2024 | 2:00pm and 5:00pm | Bomaderry Aboriginal Children’s Home, 59 Beinda Street, Bomaderry NSW 2541 |
| Wollongong  | Saturday, 23 November 2024 | 2:00pm and 5:00pm | Kiama Leagues Club, 109 Terralong Street, Kiama NSW 2533  |