

OPT OUT NOTICE

SUPREME COURT OF NEW SOUTH WALES

SHARON PATRICIA WEBER v GREATER HUME SHIRE COUNCIL

(ABN 44 970 341 154)

PROCEEDINGS NO: 2015/368036

IMPORTANT NOTICE

CLASS ACTION

REGARDING THE FIRE ON 17 DECEMBER 2009

AT WALLA WALLA/GEROGERY

On 15 December 2015, Sharon Patricia Weber ("the **Plaintiff**") commenced this representative proceeding or "class action" in the Supreme Court of New South Wales against the Greater Hume Shire Council (ABN 44 970 341 154).

This class action is brought by the Plaintiff on her behalf, and on behalf of all persons who suffered any of the following:

- (a) personal injury (whether physical or psychiatric);
- (b) loss of or damage to property; and
- (c) economic loss not resulting from loss of or damage to property;

as a result of a fire in Walla Walla and Gerogery which started on 17 December 2009 ("the **Walla Walla/Gerogery fire**"). Persons fitting that description are defined in this class action as "**group members**". The group members also include any "legal personal representatives" of the estates of any **deceased** person who would otherwise have qualified as a group member under (b) or (c) above.

The Supreme Court has ordered that this notice be published for the information of persons who might be group members on whose behalf this class action is brought and who may be affected by it.

If you think you may be a group member you should read this notice carefully as it may affect your rights.

Any questions you have concerning the matters contained in this notice should not be directed to the Court. If there is anything in it that you do not understand, you should seek legal advice.

1. What is a Representative Proceeding?

This class action is brought by the Plaintiff on her own behalf and on behalf of group members against the Defendant, where the Plaintiff and the group members have similar claims against the Defendant.

Group members are bound by any judgment or settlement entered into in the class action unless they have opted out of the proceeding. This means that:

- (a) If the class action is successful or settles, group members may be eligible for a share of any Court-awarded damages or settlement monies;
- (b) If the class action is unsuccessful, group members are bound by that result; and
- (c) Regardless of the outcome of the class action, group members will not be able to pursue their claims against the Defendant in separate legal proceedings unless they have opted out.

2. What is the Walla Walla/Gerogery fire Class Action?

The Plaintiff alleges that the Greater Hume Shire Council owed to the Plaintiff and the group members a duty of care and that it breached this duty causing the Walla Walla/Gerogery bushfire, and causing the Plaintiff and group members to suffer damage.

These allegations arise from the Greater Hume Shire Council's obligations as the operator of the Walla Walla Rubbish Tip at the date of the **Walla Walla/Gerogery fire** on 17 December 2009.

The Plaintiff's claims are made on her own behalf and on behalf of group members. The allegations are detailed in the Amended Statement of Claim filed on 18 April 2016 ("the **Amended Statement of Claim**"). The Defendant to the class action is The Greater Hume Shire Council. The Greater Hume Shire Council rejects the allegations and is defending the class action on various grounds.

3. Are You a Group Member?

You are a group member in the class action if:

- (a) You suffered personal injury (whether physical injury or psychiatric harm) as a result of the Walla Walla/Gerogery fire.
- (b) You suffered loss of or damage to property as a result of the Walla Walla/Gerogery fire.

- (c) You resided in, or had real personal property in the Walla Walla/Gerogery area and suffered economic loss, which was not consequent upon personal injury or loss or damage to property.
- (d) You are the legal personal representative of the estates of any persons in (b) or (c) above as at the commencement of this proceeding but have since died.

4. What is Opt Out?

The Plaintiff in a class action does not need to seek the consent of group members to commence a representative proceeding on their behalf. However, group members can cease to be group members by opting out of the representative proceeding.

For claims for economic loss or property loss or damage (**ELPD Claims**), the limitation period expired on 17 December 2015 (two (2) days after the class action was started). If you "opt out" of the class action, the limitation period will expire on 8 August 2016. That means that if you wish to bring a separate claim against the Defendant in respect of *property or economic loss*, you will need to commence your own proceeding as a matter of urgency. It is important that you seek legal advice as a priority.

For claims for personal injury (**PI Claims**), the primary limitation period expired on 17 December 2012. Accordingly, if you opt out, you may be statute barred from bringing any separate action. If you wish to opt out in respect of a claim for *personal injury*, you should seek legal advice as a priority.

An explanation of how group members are able to "opt out" is found in section 5, Option 'B', below.

5. What Group Members Should Do

If you fit the definition of a "group member" in the representative proceeding you must choose one of the following three options:

Option A –*Doing Something*

If you wish to remain a group member and make a claim for loss or damage you claim to have suffered as a result of the Walla Walla/Gerogery fire, you should contact Maddens Lawyers as follows:

Postal:	Mr Brendan Pendergast Maddens Lawyers PO BOX 320 Warrnambool VIC 3280
Email:	acb@maddenslawyers.com.au

Option B – "Opting out"

If you do not wish to be a group member, then you must complete the Form A "**Notice of Opting Out**" below. If you "opt out" then *you will cease to be a group member*. The class action will not affect your rights.

If you wish to "opt out" you must do so by sending your Form A notice to the Supreme Court **before the Closure Date of 15 July 2016**.

You must send your "Opt Out Notice" to the Registry so that it arrives **before** that deadline. You must also provide a copy of your "Opt Out Notice" to the Plaintiffs solicitor.

Postal:	Mr Brendan Pendergast Maddens Lawyers PO BOX 320 Warrnambool VIC 3280
Email:	acb@maddenslawyers.com.au

Option C - Do nothing

If you do nothing (i.e. you do not complete an opt out notice and do not contact Maddens Lawyers), you will remain a group member and remain bound by any order, judgment or settlement in the representative proceeding, but unless you identify yourself as a "group member" no one may be aware of that fact such that you may not be able to share in any possible benefit flowing from the proceeding. You may also have to satisfy certain conditions before your entitlement arises.

It is very important that you act promptly in deciding what you want to do. If you are not sure whether you are a group member, or you want further information or advice, you can contact Maddens Lawyers on (03) 5560 2000 or email acb@maddenslawyers.com.au.

6. Will You be Liable for Costs?

Group members will **not become liable** for any legal costs simply by remaining or registering as group members.

However, if the class action is successful and there is a judgment or settlement that results in compensation becoming payable to group members, then:

- (a) If the preparation or finalisation of your personal claim requires work to be done in relation to issues that are specific to your claim, you can engage Maddens Lawyers or other solicitors to do that work for you. You may be liable for costs associated with the determination of issues concerned only with your claim;

- (b) If any compensation becomes payable to you as a result of any order, judgment or settlement in the representative proceeding, the Court may make an order that some of that compensation be used to help pay a share of the costs which are incurred by the Plaintiff in running the representative proceeding but which are not able to be recovered from the Defendant. Ms Weber will ask the Court to make such an Order if the occasion arises; and
- (c) Representative proceedings are often settled out of Court. If this occurs in this representative proceeding, you may be able to claim from the settlement amount without retaining a lawyer.

7. Where Can You Obtain Copies of Relevant Documents?

Copies of relevant documents, including the Amended Statement of Claim and Defence, may be obtained by:

- (a) Downloading them from <http://www.maddenslawyers.com.au>;
- (b) Telephoning Maddens Lawyers on 1800 815 228 and requesting a copy to be posted;
- (c) Inspecting them by visiting the Registry of the Supreme Court in Sydney at Level 5, Law Courts Building, Queens Square, 184 Phillip Street, Sydney NSW.

Please consider the above matters carefully. If you are not sure whether you are a group member or want further information, you can contact Ms Weber's solicitors Maddens Lawyers on 1800 815 228, or seek your own legal advice. You should not delay in making your decision, as the deadline for opting out is **15 July 2016**.

This Notice is published pursuant to Orders made by the Supreme Court on 6 June 2016.

FORM A

OPT OUT NOTICE

COURT DETAILS

Court Supreme Court of New South Wales
Division Common Law
Registry Sydney
Case number 2015/368036

TITLE OF PROCEEDINGS

Plaintiff **Sharon Patricia Weber**
Defendant **Greater Hume Shire Council**
(ABN 44 970 341 154)

FILING DETAILS

Filed for _____
person opting out of representative proceedings
Legal representative _____
Contact name and telephone _____
Contact email _____

OPT OUT NOTICE

Name of person opting out _____
Address of person opting out _____

I, a group member in these representative proceedings, "opt out" of the proceedings.

I understand that in opting out:

- 1 I forego the right to share in any relief obtained by the representative party in the representative proceedings;
- 2 I am not entitled to receive any further notification about the conduct or disposition of the proceedings; and
- 3 To the extent that I have a claim against the Defendant, any limitation period suspended by the commencement of the representative proceedings has recommenced to run.