SUPREME COURT OF NEW SOUTH WALES

DAVID KINSELLA v COMMONWEALTH OF AUSTRALIA & STATE OF NEW SOUTH WALES (No 2024/00472956)

IMPORTANT PUBLIC NOTICE

FAIRBRIDGE FARM SCHOOL CLASS ACTION

This notice contains important information about the proposed discontinuance of this class action. You have two options:

1. If you **do not oppose** the discontinuance, you do you not need to do anything.
2. If you **oppose** the discontinuance (or any part of it), you need to follow the steps set out below, including file a Notice of Objection by the **Objection Deadline at 4pm on 25 June 2026**.

You should read this notice carefully, as it concerns your rights. If there is anything in it that you do not understand, you should seek legal advice.

A. Why are you receiving this notice?

1. The Supreme Court of New South Wales (**Court**) has ordered that this notice be sent to persons who have registered their interest in relation to this class action with Arnold, Thomas & Becker Lawyers.

2. The class action relates to allegations that 'immigrant children' (a term defined in the *Immigration (Guardianship of Children) Act 1946* (Cth)) who were residents of the Fairbridge Farm School in Molong, New South Wales were subjected to 'serious physical abuse' and/or 'sexual abuse' (terms defined in s 6A of the *Limitation Act 1969* (NSW)) between 1937 and 1974. It is alleged that the defendants (the Commonwealth of Australia and the State of New South Wales) had a duty of care to residents that was breached, either directly or vicariously through their employees and agents at the School, by failing to prevent that alleged serious physical abuse and/or sexual abuse.

3. The class action was commenced relying on information and documents then available to the representative plaintiff's lawyers, from which the plaintiff's lawyers understood:

    a. the representative plaintiff was an immigrant child; and
    b. an earlier class action relating to Fairbridge Farm School was settled on the basis that the defendants paid damages to group members for non-economic loss (such as for pain and suffering) meaning that damages for economic loss (such as lost wages) could be claimed in this class action.

B. Reasons for and effect of the proposed discontinuance

4. The representative plaintiff, who brings the class action, has asked the Court for leave to discontinue the class action. This follows previously asking the Court for leave to declass the class action. Declassing and discontinuing a class action have similar results (the class action ends) but may be ordered by the Court in different circumstances. Here, the representative plaintiff has concluded that discontinuance is the most appropriate result in the circumstances because:

    a. a document has become available showing that the representative plaintiff was not an immigrant child;
    b. a document has become available showing that the representative plaintiff is not able to claim damages for economic loss in this class action; and
    c. if damages are to be awarded by the Court for either economic loss or non-economic loss each group member to whom damages will be awarded will be required to make an application of their own to the Court to set aside the settlement of the earlier class action relating to the Fairbridge Farm School, and each application is expected to involve considerable time and expense; and
    d. the Court's power to discontinue the class action may be used following a request by the representative plaintiff whereas the power to declass a class action may be used only on the Court's own motion or at the request of one or both of the defendants. Here, it is the representative plaintiff who requests the Court brings the class action to an end.

5. In view of these circumstances, the representative plaintiff seeks to discontinue the class action. The discontinuance is not opposed by the defendants.

6. Should the Court allow the class action to be discontinued, then:

    a. the class action will be discontinued (that is, it will come to an end);
    b. Arnold, Thomas & Becker Lawyers will cease to act in the class action;
    c. the allegations made in the class action are not subject to limitation periods (because of s 6A of the *Limitation Act 1969* (NSW)) so a group member of this class action may commence their own individual proceeding if they wish. In other words, the discontinuance does not affect the rights of the representative plaintiff or other group members to pursue any claim they may have against the defendants in another proceeding. You can seek advice from a lawyer about your options if you wish to do so; and
    d. if the representative plaintiff or another group member wishes to commence their own individual proceeding they will still need to make their own application to the Court to set aside the settlement of the earlier class action relating to the Fairbridge Farm School (because of sections 7D and 7F of the *Civil Liability Act 2002* (NSW)). Again, you can seek advice from a lawyer about your options if you wish to do so.

7. This notice is part of the process by which the Court approves the discontinuance of the class action. That process will also include a hearing of the representative plaintiff's discontinuance application.

8. The discontinuance application will be heard on 2 July 2026 at 9:30am.

C. What do you have to do?

9. You have the following options:

If you **do not oppose** the proposed discontinuance?	• You do not have to do anything.
If you **oppose** the proposed discontinuance?	• You should seek independent legal advice should you wish to take any of the following steps. • You need to complete a 'Notice of Objection' form (enclosed with this notice) and send it to Arnold, Thomas & Becker Lawyers and the Court using the address details on the form. The Notice of Objection must be received by the Objection Deadline at 4pm on 25 June2026]. • If you object, you may wish to submit material (including documents, or submissions) for the Court to consider. This material must be received by the Court by the Objection Deadline at 4pm on 25 June 2026. • If you wish to make oral arguments in support of your objection during the Court hearing for the discontinuance application on 2 July 2026, please indicate this on the Notice of Objection, and arrangements will be made for you to be able to do so.

D. Where can you get further information?

10. Copies of relevant documents (including the amended statement of claim) may be obtained by emailing Arnold, Thomas & Becker Lawyers at reception@arnoldthomasbecker.com.au or telephoning 03 9614 1433.

11. Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Arnold, Thomas & Becker Lawyers or seek your own legal advice. Please bear in mind that while you should contact Arnold, Thomas & Becker Lawyers for further information as necessary, Arnold, Thomas & Becker Lawyers are unable to provide specific legal advice to group members.

NOTICE OF OBJECTION TO PROPOSED DISCONTINUANCE

Please send completed notices to both email addresses:

- Supreme Court of New South Wales, by email to sc.enquiries@justice.nsw.gov.au or by post to the Supreme Court of NSW at GPO Box 3, Sydney NSW 2001; and
- Arnold, Thomas & Becker Lawyers at reception@arnoldthomasbecker.com.au by the **Objection Deadline at 4pm on 25 June 2026**.

A. Details of objector

The person identified below gives notice that the person objects to the proposed discontinuance of this proceeding.

Name	
Phone number	
Email	

B. Grounds of objection

My submissions in support of my objection to the proposed discontinuance are as follows.

[*Note: Set out in the space below any submissions you wish to make, attach additional pages if necessary*]

C. Attendance at the hearing of the discontinuance application

[*Note: Circle either Y (Yes) or N (No) for each question as appropriate.*]

1. I intend to appear at the hearing on 2 July 2026. Y / N

2. I intend to appear on my own behalf. Y / N

3. I will be represented by a lawyer. Y / N

4. [*Note: If the answer to three was Y (Yes)*] The name and firm of that lawyer is:

   ……

5. I do not intend to appear but wish for my submissions to be considered in my absence. Y / N

Signed: ……

Name of person signing: ……

Date: ……