



CLADDING (ALUCOBOND) CLASS ACTION

NOTICE TO REGISTER IN THE CLASS ACTION PRIOR TO MEDIATION

WHY IS THIS NOTICE IMPORTANT?

The Federal Court of Australia has ordered that this notice be sent for persons who are likely class members in the “Cladding (Alucobond) Class Action” and who may be affected by the class action.

This notice provides **important information** about:

- a) the Cladding (Alucobond) Class Action and who is eligible to participate in it;
- b) if you are eligible to participate, how you can register for the Cladding (Alucobond) Class Action ahead of an **upcoming mediation scheduled to commence on 29 March 2023**; and
- c) how you can provide further information concerning your claims for the upcoming mediation if you have already registered, even though you do not need to (and should not) register again.

Class members who remain in the class action and who have not yet registered may do so before 4:00pm AEST on 16 February 2023 (Further Registration Date).

Registration will assist the lawyers running the class action to advance your claim at the upcoming mediation or during any subsequent settlement discussions.

Registration is not mandatory. However, there is a possibility that if you have not opted out and do not register by the Further Registration Date you may not be permitted to seek any benefit from any settlement of the class action and may be unable to bring any further claims against 3A Composites and Halifax Vogel Group in relation to the issues raised in the class action. This will only occur if:

- a) the Cladding (Alucobond) Class Action is settled on terms that mean that any amounts paid can only be shared by registered class members;
- b) as part of a settlement approval application, an order is sought which, if made, would mean that class members who have not opted out or registered by the Further Registration Date will not, without leave of the Court, be permitted to seek any benefit pursuant to the settlement; and
- c) the Court approves the settlement and determines that such an order is just in the circumstances of the case.

The Applicant and Sub-Group Representative do not presently intend to seek such an order but you should be aware of this possibility when deciding whether or not to register your claim prior to the Further Registration Date.

Previous Notice and Registration

You may have previously received a notice ordered to be issued by the Federal Court on 30 October 2020, which provided the option to register for the class action (the 2020 Notice). This notice provides further information to the 2020 Notice.

If you have already registered or signed a funding agreement with OBL, you do not need to (and should not) register again. However, you are encouraged to provide any updated information concerning your claims, including as to losses suffered to claddingau@omnibridgeway.com.



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 buildings fitted with “Alucobond PE” or “Alucobond Plus” branded Aluminium Composite Panel (**ACP**) cladding (**Alucobond PE Core Cladding**), where the cladding was first supplied between 14 February 2009 and 14 February 2019.
2. The class action is against the manufacturers of the cladding, companies called “**3A Composites**” (**3A**) and “**Halifax Vogel Group**” (**HVG**). The claimed compensation includes the cost of removal and replacement of the cladding (whether it has occurred yet or not), the cost of rectification (to the extent replacement is not required), increases in insurance premiums, the costs of building safety assessments, costs associated with disposal of replaced cladding and any consequent reduction of value to buildings.
3. 3A and HVG each deny the allegations made against them.
4. The solicitors running the case are William Roberts Lawyers, and a company named Omni Bridgeway (which used to be called IMF Bentham Limited) (**OBL**) is currently funding the case by paying the lawyers and covering any exposure to pay the other side’s costs.

Is a Class Member liable for any costs and charges?

5. Class Members are not, and will not be, liable for any “out of pocket” legal costs by remaining in this class action. The costs of running it are being borne in the first instance by OBL and William Roberts Lawyers to be distributed upon the resolution of the proceedings as set out in paragraphs 6 and 7 below.
6. If the class action is successful (that is, if money compensation is recovered), the Court will be asked to distribute the legal and funding costs, from the money recovered, equally 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 and funding costs. That means even Class Members who do not sign up to a funding agreement with OBL might have to contribute out of their share in the same way as those that sign a funding agreement do.
7. If the class action is unsuccessful, Class Members will have no liability to pay any legal and funding costs.

How do I know if my building is or was fitted with Alucobond PE Core Cladding?

8. **You are receiving this notice because your building may be fitted with Alucobond PE Core Cladding. If you are unsure what brand of cladding has been fitted to your building, there are a number of ways to try to confirm this:**
 - a) **review your own records, including the records and minutes of any strata committee;**
 - b) **contact the builder or architect of your building; or**
 - c) **engage a building consultant or cladding fabricator to temporarily remove a panel of ACP with dimensions of at least 0.8m x 0.8m to observe whether the label on the reverse side says “ALUCOBOND”, “ALUCOBOND PE” or “ALUCOBOND PLUS”. If any of these labels are not visible, it may be necessary to remove another panel of at least the same size.**



9. **If you choose to register for the class action and to become a Represented Class Member (as described under “Option 1” below), then you will have the benefit of OBL paying for experts (as required) to undertake the work necessary to verify the type of cladding you have.**
10. **IMPORTANT NOTE: If you are unsure about the type of ACP cladding on your building you can still register to the class action.** There is no out of pocket cost or liability incurred by you even if it turns out that your building is not fitted with the cladding type required to make a claim in the class action.

Am I a Class Member?

11. **You are a Class Member if the following criteria are met:**

- a) **you either:**
- i. **own or have previously owned a building situated in Australia (Relevant Building), or have or previously had an ownership interest in a part of a building situated in Australia (Relevant Building Part); or**
 - ii. **have or have previously had a leasehold interest in a Relevant Building and/or Relevant Building Part which includes an obligation to rectify defects of a kind associated with Alucobond PE Core Cladding in the Relevant Building or Relevant Building Part; and**
- b) **the Relevant Building or the Relevant Building Part is or was fitted with Alucobond PE Core Cladding;**
- c) **you have suffered loss or damage for which damages or compensation is claimed (as pleaded in the Amended Statement of Claim); and**
- d) **the Alucobond PE Core Cladding was first supplied to a consumer (in respect to the Relevant Building or Building Part) in the period between 14 February 2009 and 14 February 2019.**

12. **IMPORTANT NOTE: If you are unsure whether you are a Class Member, you can still register to the class action.** There is no out of pocket cost or liability incurred by you even if it turns out that you are not a Class Member.

B. REGISTRATION TO THE CLASS ACTION

B.1 Why should you consider registering?

13. If you wish to actively participate in the class action you may register by 4:00pm AEST on **16 February 2023**. Registration will assist the lawyers running the class action to advance your claim at the upcoming mediation or during any subsequent settlement discussions if you so register and provide information about your claim.
14. Registration is not mandatory. However, there is a possibility that if you have not opted out and do not register by the Further Registration Date you may not be permitted to seek any benefit from any settlement of the class action and may be unable to bring any further claims against 3A Composites and Halifax Vogel Group in relation to the issues raised in the class action. This will only occur if:
- a) **the Cladding (Alucobond) Class Action is settled on terms that mean that any amounts paid can only be shared by registered class members;**
 - b) **as part of a settlement approval application, an order is sought which, if made, would mean that class members who have not opted out or registered by the Further Registration Date will not, without leave of the Court, be permitted to seek any benefit pursuant to the settlement; and**



c) the Court approves the settlement and determines that such an order is **just in the** circumstances of the case.

15. The Applicant and Sub-Group Representative do not presently intend to seek such an order but you should be aware of this possibility when deciding whether or not to register your claim prior to the Further Registration Date.

B.2 How to register

16. Class Members may register by providing their details and information about their claims to the funder, OBL, and the lawyers running the class action as set out below.

17. **If you have already registered or have signed a funding agreement with OBL, you do not need to (and should not) register again.** You have already taken the steps required to register your claim, but you are encouraged to provide any updated information concerning your claim to OBL at claddingau@omnibridgway.com, including as to the losses you have suffered.

18. If you wish to register, your registration must be completed and received by 4:00pm AEST on **16 February 2023**. Registrations received after this time may not be able to be processed and considered for the purpose of the upcoming mediation.

19. If you want to register, you can do it in one of two ways, by either:

- a) **Option 1** - Entering into a funding agreement and retainer with OBL and William Roberts Lawyers, respectively (and becoming a **Represented Class Member**); or
- b) **Option 2** - submitting claim details to OBL and William Roberts Lawyers without entering into a funding agreement and retainer (with the result you will be a **Unrepresented Registered Class Member**).

20. Becoming a Represented Class Member will mean you agree to pay, out of any money compensation you are awarded: (a) an amount to OBL for costs it has paid to fund the litigation and a commission; and (b) an amount to William Roberts for any component of costs not funded by OBL. However, if you remain a Class Member that does not sign a funding agreement with OBL and retainer with William Roberts, the Court may still make an order at the end of the proceeding or after settlement that requires you to make a contribution out of any money compensation you receive.

21. **IMPORTANT NOTE: If you are unsure about the type of ACP cladding on your building, you can still register.** There is no out of pocket cost or liability incurred by you even if it turns out that your building is not fitted with the cladding type required to make a claim in the class action. See paragraph 8 in Section A above in relation to how to work out if your building has Alucobond PE Core Cladding yourself, without OBL's assistance.

Option 1

22. If you want to **register as a Represented Class Member**, what you need to do is:

- a) go to OBL's website <https://portal.omnibridgway.com/cladding> and complete the information form online, after which you will be sent the funding pack of documents;
- b) alternatively, if you require hard copy documents to complete and return, you may email: claddingau@omnibridgway.com , or telephone 1800 016 464.

23. If you are considering becoming a Represented Class Member, you should read carefully the funding agreement and the retainer, and, if you then do not understand everything, you



should get independent legal advice from your own solicitor. If you don't have a solicitor, you can contact the free legal helpline which OBL has committed to making available from independent lawyers, Dentons (Ben Allen on (02) 9035 7257 or ben.allen@dentons.com) and anything you tell them and they tell you will be confidential and won't be disclosed to OBL or the lawyers running the class action.

Option 2

24. **If you want to register as an Unrepresented Registered Class Member**, you should go to OBL's website <https://portal.omnibridgeway.com/cladding> and complete the information form online only. You do not need to sign a funding agreement or lawyer's retainer. This means you won't enter into any contract with OBL or William Roberts Lawyers, but it might still assist William Roberts to consider your details and circumstances in order to advance your claim specifically for the upcoming mediation. Also, at the end of the class action an order may be sought requiring people who benefit to contribute to the costs and the funding out of any money they receive (see paragraph 6 above).
25. **IMPORTANT NOTE:** Any information you provide as part of the registration process may be made accessible to the parties and their legal representatives, including 3A and HVG, but only for the purpose of settlement discussions.

C. WHAT HAPPENS IF YOU DO NOTHING?

26. If you do nothing (i.e. you do not register (as set out above) before 4:00pm AEST on **16 February 2023**) and you have not previously opted out, you will remain a class member in the class action and be bound by any orders made in it, including any judgment or approved settlement agreement in the proceeding.
27. If you do not register, your claims will not be able to be specifically considered at the upcoming mediation, or any future mediation or settlement discussions. There is a possibility that, if you have not opted out, you may not be permitted to seek any benefit from any settlement of the class action and may be unable to bring any further claims against 3A and HVG in relation to the issues raised in the class action. This will only occur if:
- a) the Cladding (Alucobond) Class Action is settled on terms that mean that any amounts paid can only be shared by registered class members;
 - b) as part of a settlement approval application, an order is sought which, if made, would mean that class members who have not opted out or registered by the Further Registration Date will not, without leave of the Court, be permitted to seek any benefit pursuant to the settlement; and
 - c) the Court determines that such an order is just in the circumstances of the case.
28. The Applicant and Sub-Group Representative do not presently intend to seek such an order but you should be aware of this possibility when deciding whether or not to register your claim prior to the Further Registration Date.

D. THREE IMPORTANT THINGS TO NOTE

29. First, this is not a scam. You can check (and get copies of relevant documents about the class action) by:
- a) visiting the website of OBL: <https://portal.omnibridgeway.com/cladding> or by email claddingau@omnibridgeway.com or telephoning them 1800 016 464; or



b) visiting the website of William Roberts Lawyers:

<https://www.williamroberts.com.au/cladding>; or telephoning them at any of their offices in Sydney (02) 9552 2111, Melbourne (03) 9321 9111 or Brisbane (07) 3894 0780.

30. Secondly, registering to the class action (by any mode) will assist the lawyers running the class action to consider your details and circumstances in order to advance your claim specifically for the upcoming mediation, or any subsequent mediation or settlement discussions. Failure to register may also mean you may not be able to participate in any settlement and have important consequences for any claims you may have against 3A Composites and Halifax Vogel Group. You should carefully consider these matters when deciding whether to register your claim.
31. Thirdly, if there is anything of which you are unsure of or you don't want to speak with William Roberts Lawyers (or you want to understand their involvement or the funding agreements or retainer better), you should get legal advice from your own solicitor, or contact the free legal advice helpline if you want free independent legal advice about the funding agreement and retainer (by contacting Ben Allen of Dentons Lawyers by email: ben.allen@dentons.com or by telephone: (02) 9035 7257).