

FEDERAL COURT OF AUSTRALIA NOTICE

REDACTED NOTICE OF PROPOSED SETTLEMENT

CLYDESDALE DEVELOPMENT AT MARSDEN PARK CLASS ACTION

**SHASHANK BIST & ANOR V CYAN STONE CLYDESDALE ESTATE PTY LTD ACN 610
208 967 & ORS**

FEDERAL COURT OF AUSTRALIA PROCEEDINGS NO. NSD 1174 OF 2024

EXECUTIVE SUMMARY

1. You are a Group Member in the Clydesdale Development at Marsden Park Class Action (Federal Court of Australia Proceedings No. NSD 1174 OF 2024).
2. The Applicants and the Seventh to Ninth Respondents to the Class Action have agreed on terms of settlement of the class action (**Proposed Settlement**). **If you wish to participate in the Proposed Settlement, do not ignore this letter.**
3. As a Group Member, you have 4 options:
 - (a) complete the document at Schedule 1 or at <https://www.williamroberts.com.au/class-actions/clydesdale-class-action/> by no later than **4:00pm (AEST) on 19 May 2025**, which will entitle you to participate in the Proposed Settlement by either purchasing your lot at a new price or receiving a cash payout;
 - (b) do nothing and be bound by the Proposed Settlement, but receive **no property or cash payout**;
 - (c) object to the Proposed Settlement by completing the form at Schedule 2;
 - (d) if you have previously opted out of the proceedings, but wish to participate in the Proposed Settlement, complete the form at Schedule 3 to opt back into the proceedings (subject to the Court's leave) and **also** complete the form at Schedule 1 to participate in the Proposed Settlement.

4. **If you do not make yourself known to William Roberts Lawyers, you will receive nothing from the Proposed Settlement and will be bound by the obligations under the Settlement Deed. If you wish to participate in the Proposed Settlement, you must contact William Roberts Lawyers and complete the Notice of Participation and Confidentiality Agreement at Schedule 1 or at <https://www.williamroberts.com.au/class-actions/clydesdale-class-action/> by 4:00pm (AEST) on 19 May 2025.**
5. Further details on the Proposed Settlement are set out below. Everything you need to know about the Proposed Settlement is also summarised in Schedule 4.
6. If you need any of the terms below explained, please contact William Roberts Lawyers or seek advice from an independent lawyer of your choosing.

This notice contains important information about a proposed settlement of the class action in relation to the Clydesdale Development at Marsden Park.

Please read it carefully. If you are a group member in the Clydesdale Development at Marsden Park Class Action, your legal rights will be affected by the proposed settlement if it is approved by the Court. In particular, it is proposed that only group members who have completed the form at Schedule 1 will share in the proposed settlement. To work out whether you are a group member, and find out how to participate, see section B below.

SUMMARY OF YOUR OPTIONS

1. If you would like to participate in the Proposed Settlement, even if you object to the Proposed Settlement, **you need to complete the form at Schedule 1**, by no later than **4:00pm (AEST) on 19 May 2025**.
2. If you wish to **object** to the Proposed Settlement then you **must**, by no later than **4:00pm (AEST) on 21 May 2025**, fill in the form entitled '**Notice of Objection to Proposed Settlement**' annexed to this notice at Schedule 2 **and** file it with the Court by sending a physical copy of it to the address on the form and sending an electronic copy of it to the Applicants' solicitors, William Roberts Lawyers by email to: clydesdaleclassaction@williamroberts.com.au

A WHAT IS THIS NOTICE ABOUT?

1. This notice provides important information about a proposed settlement of the Clydesdale Development at Marsden Park Class Action.
2. The Applicants and the Seventh to Ninth Respondents (**Astro Fort Parties**) have agreed on terms of settlement, under which the Astro Fort Parties will allow each group member or set of group members (corresponding to each lot) to make an election per lot to either:
 - a) enter into a contract for the sale of land with Astro Fort Clydesdale Pty Ltd to re purchase their respective lots of land situated at the Clydesdale Development at the rate of \$[REDACTED] per square metre; or
 - b) be paid a sum of money from the Astro Fort Parties, calculated at the rate of \$[REDACTED] per square metre (based on the square metre lot size of the group member's respective lot(s) of land)

(together, the **Settlement Election**).
3. The Settlement Election is without admission of liability against the Astro Fort Parties, and is in full settlement of all of the group members' claims against the Astro Fort Parties (the **Proposed Settlement**).
4. The Proposed Settlement must be approved by the Court before it becomes effective. If it is not approved by the Court, then the Proposed Settlement will not become effective and the proceedings will continue (unless the parties agree to different settlement terms which meet the Court's approval).

5. All group members will be bound by the terms of the Proposed Settlement if approved by the Court. The active parties intend to seek an order from the Court which, if made, would have the effect that **only group members who have notified their intention to participate in the Proposed Settlement will be eligible to participate in the Proposed Settlement**. If such an order is made, group members who do not register their claims will **not** be eligible to participate in the Proposed Settlement without leave of the Court.
6. Details on **how to notify your participation in the settlement** are set out below in paragraph 47.
7. In considering whether the Proposed Settlement should be approved, the Court must assess whether the Proposed Settlement is fair and reasonable having regard to the interests of the group members as a whole. There will be a hearing in the Federal Court of Australia **on 29 May 2025 at 10:15am** for the Court to determine whether to approve the Proposed Settlement. That hearing will be open to the public and any group member who has completed a Notice of Objection will have the opportunity to make submissions to the Court in relation to their objection.
8. If there is anything in this notice that you do not understand or if you have any questions, you should seek independent legal advice or contact William Roberts Lawyers using the contact details available at <https://www.williamroberts.com.au/class-actions/clydesdale-class-action/> or email clydesdaleclassaction@williamroberts.com.au. Please do **not** contact the Court.

B WHAT IS THE CLYDESDALE DEVELOPMENT AT MARSDEN PARK CLASS ACTION ABOUT, AND WHO ARE GROUP MEMBERS?

9. By way of summary, the 'Clydesdale Development at Marsden Park Class Action' is a representative proceeding (otherwise commonly referred to as a 'Class Action'), commenced by Shashank Bist and Natalia Bist (the Applicants) on their own behalf and on behalf of other persons (known as 'group members') in the Federal Court of Australia. It relates to the sale and purchase of certain lots of land 'off the plan' being part of a development site situated at Clydesdale in Marsden Park, New South Wales between around 2020 to date.
10. You may be a Group Member in the Clydesdale Development at Marsden Park Class Action if you are a person or entity who entered into a contract for the purchase of lots of land at Clydesdale at:
 - i. Precinct 3, 1270 Richmond Road, Marsden Park NSW 2765;
 - ii. Precinct 3.1, 1270 Richmond Road, Marsden Park NSW 2765; or
 - iii. Precinct 3.2, 1270 Richmond Road, Marsden Park NSW 2765;

from any or all of the following companies known as the '**Vendors**':

- i. Cyan Stone Clydesdale Estate 1 Pty Ltd (In Liquidation);
 - ii. Cyan Stone Clydesdale Estate 2 Pty Ltd (In Liquidation);
 - iii. Cyan Stone Clydesdale Estate 3 Pty Ltd (In Liquidation);
 - iv. Cyan Stone Clydesdale Pty Ltd (In Liquidation);
 - v. Cyan Stone Clydesdale Development Pty Ltd (In Liquidation); and/or
 - vi. Cyan Stone Clydesdale Holdings Pty Ltd (In Liquidation).
11. Further details of what this class action is about as well as details of the persons and entities who are group members in this class action can be found on the website of William Roberts Lawyers at <https://www.williamroberts.com.au/class-actions/clydesdale-class-action>.

12. The Applicants (who brought the action on their own behalf and on behalf of the group members) are represented by solicitors, William Roberts Lawyers. The Clydesdale Development at Marsden Park Class Action is funded by the Applicants with the assistance of contributions being made by group members.
13. The Vendors (from which the Applicants and group members entered into contracts to acquire lots) sold the land on which the proposed lots were to be created to Astro Fort Clydesdale Pty Ltd. The Vendors are in liquidation.
14. The Vendors have not substantively responded to the allegations made against them.
15. The Astro Fort Parties have been defending the class action. They have denied the allegations made against them, and have denied that they caused any loss that may have been suffered by the Applicants and group members.
16. Notwithstanding the above, terms of settlement have been reached with the Astro Fort Parties and with their financiers on a without admissions basis (**Proposed Settlement**).

C KEY TERMS OF THE PROPOSED SETTLEMENT

17. The key terms of the Proposed Settlement which the Court will be asked to approve are as follows.
18. Each group member or set of group members (constituting a purchaser of a lot the subject of a Presale Contract) will be entitled to make an election to either:
 - a) by themselves (or their nominee or by way of call option), enter into a new contract for the sale of land with Astro Fort Clydesdale Pty Ltd for the sale of a lot yet to be created in the Clydesdale Development corresponding to the same lot of land described in the Applicants' and group members presale contract for the sale of land originally between the respective Applicants and group member and the First to Sixth Respondents (**Presale Contract**) at a price of \$[REDACTED] per sqm with the deposit to be paid into an interest bearing controlled monies account of Thomson Geer Lawyers (to be held as the deposit under the new contract and any interest accrued to be paid to the Applicants or group member as the case may be) in the same commercial terms as the Presale Contract (and where the Presale Contract of any particular group member is not available, the terms and conditions behind the front page of the contract will be presumed to be the same as the Applicants' Presale Contract). In respect to any call option, the call option period is not to exceed 43 days from the date of entry into that call option (**New Contract of Sale**); or
 - b) receive a cash payment of \$[REDACTED] per sqm (based on the lot size of each respective group members' land that was subject of a Presale Contract) (**Cash Payment**) in two equal payments comprising:
 - i. within 6 months of the date of Settlement Approval, a first tranche payment from the Astro Fort Parties to be calculated by reference to the size of the lots the subject of the relevant group member's Presale Contract and by adopting a price of \$[REDACTED] per sqm; and
 - ii. within 12 months of the date of Settlement Approval, a second tranche payment from the Astro Fort Parties to be calculated by reference to

the size of the lots the subject of the relevant group member's Presale Contract and by adopting a price of \$[REDACTED] per sqm.

(together, the Settlement Election)

19. Each group member or set of group members corresponding to a purchaser under a Presale Contract must notify the Astro Fort Parties of their election within 28 days of the date of Settlement Approval (**Election Date**). For the avoidance of doubt, if an Applicant or Group Member elects to enter into a New Contract for Sale, but intends to appoint a nominee, the identity of the nominee must be notified to the Astro Fort Parties on or before the Election Date.
20. Where a group member or set of group members corresponding to a purchaser under a Presale Contract has elected to enter into a New Contract for Sale, that group member or set of group members (or their nominee) must enter into the new contract (whether directly, through a nominee or through the exercise of a call option as the case may be) within 43 days of the Election Date, otherwise that group member or set of group members will be deemed to have made an election to receive a Cash Payment.
21. If a group member or set of group members corresponding to a purchaser under a Presale Contract does not notify the Astro Fort Parties of their Settlement Election on or before the Election Date, they will be deemed to have made a Settlement Election to receive a Cash Payment. After the Election Date, the group members will **no longer be entitled to make a Settlement Election**.
22. It is important that the Settlement Election be consistent within each set of group members. In other words, where there were joint purchasers under a Presale Contract, there will only be one right of election. If there is inconsistent election within each set of group members – i.e. where one joint purchaser elects to enter into a New Contract for Sale, and the other joint purchaser elects to receive a Cash Payment – that set of group members will be deemed to have made a Settlement Election to receive a Cash Payment, and any election to enter into a New Contract for Sale will be disregarded.
23. The Settlement Election must be made by completing and signing an Election Notice (a form of which is at Schedule 5) and sending a copy to the Astro Fort Parties. Where group members are joint purchasers, then each joint purchaser must sign the same Election Notice.
24. Once a Settlement Election has been made, it is binding and irrevocable. That means that:
 - a) each group member or set of group members that elects to receive the Cash Payment will no longer be entitled to enter into a New Contract for Sale (although there is nothing to preclude such group members from seeking to acquire on the open market);
 - b) each group member or set of group members that elects to enter into a New Contract for Sale will no longer be entitled to receive a Cash Payment. Entry into a New Contract for Sale will give rise to fresh contractual obligations under that New Contract for Sale, including in particular the obligation to complete by the completion date under that New Contract for Sale. Any failure to comply with such obligations could have legal consequences.
25. To be able to participate in the Proposed Settlement and make the Settlement Election, the Applicants and group members:

- a) must provide a copy of their exchanged Presale Contract to the Astro Fort Parties;
 - b) must rescind their respective Presale Contract (meaning that Contract will no longer be valid) by providing a copy of a signed and completed Notice of Rescission (a form of which is at Schedule 6) and sending a copy to the Astro Fort Parties);
 - c) must, who seek the New Contract of Sale, agree to pay rateably (a form of which is at Schedule 7) for the legal costs incurred by William Roberts Lawyers (including any legal fees or disbursements), in connection with the Clydesdale Development at Marsden Park Class Action. The amount of costs to be paid by each of the Applicants and group members who elect to participate in the Settlement will be rateable per lot(s) owned and determined on a per square metre basis of the lot(s) of land subject of the Presale Contract of the Applicants and/or group members, respectively (Rateable Amount of Costs) (as discussed further below at paragraphs 35 to 43).
 - d) must provide proof of service of a completed Notice of Rescission on the Vendors to the Astro Fort Parties.
26. For those Applicants or group members that make an election to enter into a New Contract for Sale, the Astro Fort Parties will provide a binding written undertaking that the Astro Fort Parties:
- a) must not sell the Applicants' or the group member's respective lot to any third party without the prior written consent of the respective Applicant or group member; and
 - b) will not otherwise sell the Clydesdale Development to any third party prior to the lots being subdivided, without procuring the novation of any contract for sale entered into by any Applicant or group member and Astro Fort Clydesdale Pty Ltd pursuant to the election to enter into a New Contract for Sale to any incoming purchaser.
27. The Agent and the Security Trustee (of the financiers of the Astro Fort Parties) will also provide the Applicants and group members (care of William Roberts Lawyers) with a binding written undertaking that:
- a) in so far as the Applicants or a group member elects to enter into a New Contract for Sale, subject to the terms of any new contract entered into with the Applicants or that group member and the satisfaction of any conditions of settlement under that new contract, the Security Trustee will discharge any security that it holds over the relevant subdivided lot at settlement of the sale of that lot to the Applicant or group member;
 - b) in so far as the Applicants or a group member elects a Cash Payment or is defaulted into that option because of a failure to make a Settlement Election by the Election Date, the Security Trustee and the Agent will ensure and otherwise warrant that the Astro Fort Parties will perform their payment obligations regarding the Cash Payment; and
 - c) in the event that the Security Trustee and/or the Agent exercise any right of sale in respect the Clydesdale Development or any part of it that includes a lot

that is the subject of a New Contract for Sale entered into by the Applicants or any group member and Astro Fort Clydesdale Pty Ltd, the Security Trustee and the Agent:

- i. will give any Applicants and group members that have elected to enter into a New Contract for Sale 14 days' notice (care of William Roberts Lawyers) of completion of the sale; and
 - ii. will procure the novation of any New Contract for Sale entered into by the Applicants or any group member and Astro Fort Clydesdale Pty Ltd to any incoming purchaser.
 - d) The Applicants and group members agree and acknowledge that they will not lodge any caveat on the Clydesdale Development land or any portion thereof (except where expressly allowed under a New Contract for Sale) to the extent that any caveat is or has been lodged or recorded, the Applicants or relevant group member will promptly take all available steps to withdraw and remove their caveat.
28. The Proposed Settlement also includes mutual releases as between the Applicants, group members, Astro Fort Parties and the financiers of the Astro Fort Parties, that are commonly agreed in class action settlements. Those releases will prevent the Applicants and group members on the one hand and the Astro Fort Parties and financiers of the Astro Fort Parties on the other hand from bringing any future claims against each other in relation to the subject matter of the Clydesdale Development at Marsden Park Class Action, regardless of whether group members have completed a Notice of Participation and Confidentiality Agreement or whether they receive any benefit from the Proposed Settlement.
29. The terms of the Proposed Settlement are and must be kept confidential.
30. Finally, under the Proposed Settlement, the Applicants, group members, the Astro Fort Parties, and the financiers of the Astro Fort Parties, agree that they will not disparage, adversely comment on or call into disrepute each other, or each other's directors, officers, employees or agents. That is not limited to disparagement and comments by words. There will be no entitlement to making any public statements or public representations regarding the subject matter of the proceeding.
31. The settlement covers the Applicants and all group members, whether or not they have completed a Notice of Participation and Confidentiality Agreement.
32. If the Proposed Settlement is not approved by the Court there will be no Settlement Election, New Contract of Sale for land or Cash Payment, or any other distribution of any monies to the Applicants and group members unless and until the Applicants are successful in the proceeding, or a further settlement is reached and approved by the Court.

D THE APPLICANTS' PROPOSED DISTRIBUTION AND DEDUCTIONS FROM THE SETTLEMENT SUM

33. At the settlement approval hearing, the Applicants will ask the Court to approve a proposed settlement scheme (**Settlement Scheme**) which will provide a mechanism for:

- a) the Settlement Election process;
 - b) setting out how the Rateable Amount of Costs are to be paid by the Applicants and participating group members; and
 - c) the process for making distributions to the Applicants and group members.
34. If the Proposed Settlement and Settlement Scheme is approved by the Court, William Roberts Lawyers will be appointed as the Scheme Administrator of the Settlement Scheme.
 35. The Settlement Scheme which the Applicants will ask the Court to approve will involve the Applicants and group members who participate in the settlement paying rateably for the legal costs incurred by William Roberts Lawyers (including any fees or disbursements) in connection with these proceedings. The amount of costs to be paid by the Applicants and group members will be rateable per lot owned (subject to the Presale Contract) and determined on a per square metre basis (**Rateable Amount of Costs**).
 36. For the Applicants or group members who make an election to enter into a New Contract of Sale of Land, those group members must provide a written undertaking to William Roberts Lawyers on or before the Election Date, confirming they agree to pay their Rateable Amount of Costs to William Roberts Lawyers, in the form to be signed and completed at Schedule 7.
 37. For group members who make an election to receive a Cash Payment, before any amount is to be distributed to the Applicants or group member the Rateable Amount of Costs owed by that person will be deducted by William Roberts Lawyers from what would be that person and entities' Cash Payment.
 38. If it is determined that the Applicants or a group member has already made a contribution to the costs of William Roberts Lawyers, in an amount that is higher than the Rateable Amount of Costs, then the Applicants or each respective group member will be refunded the amount paid in excess of their Rateable Amount of Costs (however only to the extent that surplus funds are available) from the funds recovered in paragraph 18 above.
 39. The proposed Settlement Scheme will be available to be inspected upon request by interested group members on or before 9 May 2025 by emailing clydesdaleclassaction@williamroberts.com.au.
 40. The Applicants will ask the Court to approve the Rateable Amount of Costs to be paid by the Applicants and group members.
 41. The Court will consider whether the Rateable Amount of Costs are fair and reasonable.
 42. The amounts below are estimates of the amount of the Applicants' total costs (that will be paid rateably by the Applicants and the group members). These estimates may be subject to change but are not expected to materially differ.
 - (a) Legal and other costs incurred and paid or payable by the Applicants to William Roberts Lawyers up to settlement approval in the amount of \$1.6 million. In addition, the costs relating to administering the Settlement Scheme, are estimated to be approximately \$250,000.
 - (a) Payment of \$1,000.00 per lot to the Applicants to reimburse them for their time in acting as the representative party in the Clydesdale Development at Marsden Park Class Action and undertaking the litigation risk without a litigation funder or ATE insurer.

43. If after six (6) months of the distribution of any proceeds received by the Applicants or group members and all other costs and disbursements have been paid, including the reimbursement of all of the costs already paid by the Applicants and or group members for the costs of William Roberts Lawyers any amount remains or is held in the trust account of the Settlement Administrator, such as any amounts:
- a) which have not been the subject of payment in cleared funds to the Applicants or group members; or
 - b) that cannot be processed after exhausting all reasonable avenues to locate group members; or
 - c) in respect of any un-presented cheques;
- then, the amount remaining in the Settlement Administrator's trust account shall be donated to Street Side Medics, a charity that provides medical services to the homeless, or if it cannot be paid to or accepted by Street Side Medics for any reason, donated to a charity within the meaning of the *Charities Act 2013* (Cth).

E WHAT IS THE PROCESS FOR SETTLEMENT APPROVAL

44. As noted at paragraph 4 above, the Proposed Settlement will only take effect if it is approved by the Court. In deciding whether to approve the Proposed Settlement, the Court will consider whether the Proposed Settlement is fair and reasonable having regard to the interests of the group members as a whole.
45. The Court will hold a hearing on **29 May 2025 at 10:15am** to determine whether to approve the Proposed Settlement. You are entitled to attend the hearing and be heard in relation to any objections if you wish to.

F YOUR OPTIONS

46. If you **do not object** to the Proposed Settlement, you will **still need to notify your claim to be entitled to participate in the Proposed Settlement**. If you do nothing, then as stated above, if the Proposed Settlement is approved by the Court, you will be prevented from bringing any future claims against the Astro Fort Parties, Agent, Security Trustee and financiers in relation to the subject matter of the Clydesdale Development at Marsden Park Class Action and you will not be entitled to share in any benefit from the Proposed Settlement.
47. If you wish to **notify your participation in the Proposed Settlement**, then you must, by no later than **4:00pm (AEST) on 19 May 2025** complete the Notice of Participation and Confidentiality Agreement at Schedule 1 or at <https://www.williamroberts.com.au/class-actions/clydesdale-class-action/>.
48. If you wish to **object** to the Proposed Settlement then you **must**, by no later than **4:00pm (AEST) on 21 May 2025**, fill in the form attached at Schedule 2 entitled 'Notice of Objection to Proposed Settlement' and file it with the Court by sending a hard copy to the address on the form and sending an electronic copy of it to William Roberts Lawyers by email to: clydesdaleclassaction@williamroberts.com.au.
49. If you object, you are entitled to attend the settlement approval hearing at **10:15am on 29 May 2025** to explain the basis of your objection to the Judge if you wish to do so. If you do not attend, then the Court may consider your objection and the approval of the Proposed Settlement in your absence. You may wish to seek independent legal advice in relation to opposing the Proposed Settlement.
50. If you have **opted out of the proceedings**, and wish to opt back in, you must complete the form at Schedule 3 to opt back into the proceedings (subject to the Court's leave) and also complete the form at Schedule 1 to participate in the Proposed Settlement.

SCHEDULE 1**NOTICE OF PARTICIPATION AND CONFIDENTIALITY AGREEMENT**

TO: William Roberts Lawyers
Level 22, 66 Goulburn Street
SYDNEY NSW 2000

BY NO LATER THAN 4:00PM ON 19 MAY 2025, SEND COMPLETED FORM TO:
clydesdaleclassaction@williamroberts.com.au

FROM:

Insert lot number at 1270 Richmond Road, Marsden Park, NSW		
CONTACT INFORMATION OF PURCHASERS/GROUP MEMBER		
Purchaser 1		Purchaser 2 (if applicable) [This is any co-purchaser that is listed on the contract of sale for the above stated lot and wishes to participate in the settlement]
Name		
Current residential address		
Preferred mobile phone contact number		
Preferred contact email address to receive confidential documents		
Date		
Signature		

Dear Sir / Madam

- 1 I / we hereby give notice that I / we wish to participate in the settlement of the proceedings *Shashank Bist & Anor v Cyan Stone Clydesdale Estate Pty Ltd ACN 610 208 967 & Ors*, Federal Court of Australia case number NSD 1174/2024 (**the Proceedings**).

- 2 I / we refer to the Deed of Settlement and Release executed by parties to the Proceedings on 17 April 2025 (**the Deed**) referred to in the Settlement Notice.
- 3 In order to participate in the settlement of the proceedings, I / we agree that in order to receive a copy of the Deed from William Roberts Lawyers, I / we agree to:
 - a. keep confidential and not disclose the Deed or any of its contents to any person or entity;
 - b. ensure that the Deed is stored in a secure manner;
 - c. notwithstanding the above, I / we are entitled to disclose the Deed:
 - i. to a professional legal or financial advisor; or
 - ii. as required by law.
- 4 I / we agree that this Form will be governed by and is to be construed in accordance with the laws of New South Wales and the parties submit to the non-exclusive jurisdiction of the Courts of New South Wales.
- 5 I / we agree that I / we have had the opportunity to receive independent legal advice in relation to the terms of this Form prior to signing this Form.

SIGNED by:

.....

[INSERT NAME]

SIGNED by:

.....

[INSERT NAME]

SCHEDULE 2**NOTICE OF OBJECTION TO PROPOSED SETTLEMENT**

No. NSD 1174 of 2024

Federal Court of Australia

District Registry: New South Wales

Division: General

SHASHANK BIST and another named in the schedule

Applicants

CYAN STONE CLYDESDALE ESTATE 1 PTY LTD ACN 610 208 967 and others named in the schedule

Respondents

Complete this form if you wish to submit an objection to the Proposed Settlement.

If you support the proposed settlement, you do **NOT** need to return this form.

Please note that if you submit a Notice of Objection to the Proposed Settlement, your name and your specific circumstances (including contractual relationship(s) with any or all of Cyan Stone Clydesdale Estate 1 Pty Ltd ACN 610 208 967 (In Liquidation), Cyan Stone Clydesdale Estate 2 Pty Ltd (ACN 610 209 106) (In Liquidation), Cyan Stone Clydesdale Estate 3 Pty Ltd (ACN 610 210 494) (In Liquidation), Cyan Stone Clydesdale Pty Ltd, (ACN 610 008 172) (In Liquidation), Cyan Stone Clydesdale Development Pty Ltd (ACN 610 008 467) (In Liquidation) and Cyan Stone Clydesdale Holdings Pty Ltd (ACN 610 008 510) (In Liquidation) (**Vendors**)) and grounds of objection may be read out in Court and/or referred to in orders and/or judgments of the Court.

Your Notice of Objection will be considered by the Court when it is determining whether to approve the Proposed Settlement.

If you wish to object to the Proposed Settlement, or any aspect of it, you must do so by **4.00pm (AEST) on 21 May 2025** by completing this form **together with** any evidence and submissions in support and sending these documents to the New South Wales District Registry of the Federal Court of Australia at the address below **and** to the Applicants lawyers, William Roberts Lawyers by email to clydesdaleclassaction@williamroberts.com.au.

Any Notice of Objection received after this deadline may not be considered by the Court when it is determining whether to approve the Proposed Settlement.

Address of the NSW South Wales District Registry of the Federal Court of Australia

To: Level 17

Law Courts Building

184 Phillip Street, Queens Square

Sydney, New South Wales, 2000

The person identified below gives notice pursuant to order 6 of the orders made by the Court on 5 May 2025 that the person is a group member in the Clydesdale Development at Marsden Park Class Action and **OBJECTS** to the Proposed Settlement of this proceeding, on the grounds outlined below.

A. DETAILS OF OBJECTING GROUP MEMBER

Details of the group member, being the person or entity that acquired an interest in a lot of land at the Clydesdale Development:

Name of Group Member	
ACN/ABN [<i>if company</i>]	
Person completing this form	
Capacity [<i>e.g., corporation, liquidator, administrator</i>]	
Telephone	
Email	
Postal address	
Lot number at Clydesdale Development	

B. ATTENDANCE AT HEARING AT 10:15am (AEST) ON 29 May 2025

- ☐ I do not intend to appear, but wish for my submissions to be considered in my absence
- ☐ I intend to appear before the Court at the hearing at 10:15am (AEST) on 29 May 2025

[*please tick one*]

If you intend to appear, please complete the following:

- ☐ I will appear on my own behalf
- ☐ I will be represented by a lawyer

[*please tick one if you intend to appear*]

C. GROUND(S) OF OBJECTION

Please state the reasons in support of your objection to the Proposed Settlement [*set out in the space below any submissions you wish to make, attach additional pages if necessary*]:

D. EXECUTION OF NOTICE

If you are completing the Notice of Objection on behalf of a company with a sole director or as the sole trustee, the sole director or sole trustee must sign and have their signatures witnessed.

If you are completing the Notice of Objection on behalf of a company or trust (with more than one director or trustee), two directors of the company, a director and a company secretary of the company, or two trustees must sign. A witness signature is not required.

By signing below, I confirm that the information I have provided in this form is true, complete and correct:

Signed:	
Name	
Position	
Date	
Witness Signature	
Name of Witness	

Second signature:	
Name	
Position	
Date	
Witness Signature	
Name of Witness	

SCHEDULE 3**OPT BACK IN FORM**

TO: William Roberts Lawyers
Level 22, 66 Goulburn Street
SYDNEY NSW 2000

SEND COMPLETED NOTICE TO: clydesdaleclassaction@williamroberts.com.au

.....
Name of purchaser

.....
Signature of purchaser

.....
Date

.....
Current residential address of purchaser

.....
Preferred mobile phone contact number of purchaser

.....
Preferred contact email address of purchaser

.....
Lot number at 1270 Richmond Road, Marsden Park, NSW

Dear Sir / Madam

- 1 I refer to the Opt Out Notice that I filed in the proceedings *Shashank Bist & Anor v Cyan Stone Clydesdale Estate Pty Ltd ACN 610 208 967 & Ors*, Federal Court of Australia case number NSD 1174/2024 (**the Proceedings**).
- 2 I confirm that I mistakenly filed the Opt Out Notice, and now wish to opt back into the Proceedings and continue as a group member.
- 3 I understand that opting back into the Proceedings is subject to leave of the Court.
- 4 I further confirm that I originally purchased my lot at 1270 Richmond Road, Marsden Park with a co-purchaser and that co-purchaser did not file any Opt Out Notice and therefore continues to be a group member of the Proceedings.

SCHEDULE 4

INFORMATION ABOUT SETTLEMENT ELECTION

How can I participate in the Proposed Settlement?	Complete a copy of the Notice of Participation and Confidentiality Agreement at Schedule 1 or at https://www.williamroberts.com.au/class-actions/clydesdale-class-action/ and return a copy to William Roberts Lawyers by no later than 4:00pm (AEST) on 19 May 2025.
What are the settlement options?	<ol style="list-style-type: none"> 1. Enter into a new contract with Astro Fort Clydesdale Pty Ltd for the lot previously purchased by you at a new price; or 2. Elect to receive a cash payment.
How do I notify my election of the settlement options?	Each group member or set of group members must notify the Astro Fort Parties of their election within 28 days of the date of Settlement Approval (Election Date), in the form set out in Schedule 5.
How long do I have to enter into a new contract for the sale of land?	If you have elected to enter into a new contract for the sale of land, you must enter into a new contract within 43 days of the Election Date.
What is the consequence of failing to enter into a new contract within the required time period?	If you do not enter into a new contract for the sale of land within 43 days, you will be deemed to have made an election to receive a cash payment (subject to you having complied with the other necessary conditions precedent).
What happens if I do not notify the Astro Fort parties of my election?	You will be deemed to have made an election to receive a cash payment (subject to you having complied with the other necessary conditions precedent).
What do I need to do after making a settlement election?	<ol style="list-style-type: none"> 1. Provide the Astro Fort Parties a copy of your exchanged pre-sale contract; 2. Rescind your respective Pre Sale Contract by serving a Notice of Rescission in the form set out in Schedule 6. 3. Send a copy of the Notice of Rescission, along with a copy of proof of service of a completed Notice of Recission on the Vendors to the Astro Fort Parties. 4. If you seek to enter into a new contract with Astro Fort Clydesdale Pty Ltd, you must agree to pay rateably (a form of which is at Schedule 7) for the legal costs incurred by William

	Roberts Lawyers (including any legal fees or disbursements), in connection with the Clydesdale Development at Marsden Park Class Action.
Are there any legal costs connected to the proceedings?	<p>If you elect to participate in the settlement, you must pay rateably for the legal costs incurred by the lawyers representing the Applicants in connection with the Proceeding.</p> <p>The amount of costs to be paid by the Applicants and Group Members will be rateable per lot owned and determined on a per square metre basis (Rateable Amount of Costs).</p>
Do I have to contribute to the Rateable Amount of costs?	<p>Yes.</p> <p>If you elect to enter into a new contract for the sale of land, you must pay your respective Rateable Amount of Legal Costs to William Roberts Lawyers and provide a written undertaking to William Roberts Lawyers confirming that you agree to pay your respective Rateable Amount of Costs to William Roberts Lawyers.</p> <p>If you elect to receive a cash payment, the Rateable Amount of Costs owed by you will be deducted by William Roberts Lawyers from your distribution.</p>

SCHEDULE 5**NOTICE OF ELECTION**

TO Astro Fort Clydesdale Pty Ltd (ACN 675 838 507)
c/o Thomson Geer, Level 14, 60 Martin Place
Sydney NSW 2000

and

Astro Fort Holdings Pty Ltd (ACN 675 830 270)
c/o Thomson Geer, Level 14, 60 Martin Place
Sydney NSW 2000

and

Marvia Joncos Holdings Pty Ltd (ACN 671 948 502)
c/o Thomson Geer, Level 14, 60 Martin Place
Sydney NSW 2000

BY EMAIL

TO: clydesdale@tglaw.com.au

WITH A

COPY TO: clydesdaleclassaction@williamroberts.com.au

FROM [INSERT GROUP MEMBER NAME]

LOT NO. [INSERT LOT NUMBER]

[DATE] 2025

BY EMAIL

Dear Sir / Madam

Notice of Election pursuant to clause 4.1 the Deed of Settlement & Release

I / we refer to the Deed of Settlement & Release entered into between Shashank Bist and Natalia Bist (in their own capacity and on behalf of the Group Members) and Astro Fort Clydesdale Pty Ltd ACN 675 838 507, Astro Fort Holdings Pty Ltd ACN 675 830 270, Marvia Joncos Holdings Pty Ltd ACN 671 948 502, the Agent and the Security Trustee of the financiers of the Astro Fort Parties (referred to as the **Agent** and the **Security Trustee**), among others, in relation to Federal Court of Australia proceeding no. NSD1174/2024 (**Deed of Settlement**).

Defined terms in this letter have the same meaning as in the Deed of Settlement, unless stated otherwise.

Pursuant to clause 4.1 of the Deed of Settlement, I / we hereby give notice of the election to:

Please tick one (1) box only	Option – please complete the details where relevant
<input type="checkbox"/>	<p>enter into a new contract pursuant to clause 4.1(a).</p> <p>The details of the purchaser under the new contract are:</p> <p>Name: <i>[please complete]</i></p> <p>ACN (if an entity): <i>[please complete]</i></p> <p>Address: <i>[please complete]</i></p> <p>I do not / do (<i>please select</i>) intend to enter into an option deed in connection with the new contract.</p>
<input type="checkbox"/>	<p>receive the Settlement Payments pursuant to clause 4.1(b).</p>

I / we **enclose** with this notice:

- a copy of our exchanged Presale Contract, as required under clause 5.1;
- a copy of the Notice of Rescission addressed to the Cyan Stone Parties served on the Cyan Stone Parties together with proof of service of the same, as required under clause 5.2.

I / we acknowledge and agree that it is a condition precedent to entering into a new contract as detailed in clause 4.1(a) or receiving a Settlement Payment as detailed in clause 4.1(b) of the Deed, that clause 5.1 and clause 5.2 of the Deed be first satisfied.

Yours faithfully,

SIGNED by:

.....

[INSERT NAME]

SIGNED by:

.....

[INSERT NAME]

SCHEDULE 6**Notice of Rescission**

TO THE VENDOR: Mr Stephen Hathway in his capacity as liquidator of:
 Cyan Stone Clydesdale Estate 1 Pty Ltd (in liq) (ACN 610 208 967)
 Cyan Stone Clydesdale Estate 2 Pty Ltd (in liq) (ACN 610 209 106)
 Cyan Stone Clydesdale Estate 3 Pty Ltd (in liq) (ACN 610 210 494)
 Cyan Stone Clydesdale Pty Ltd (in liq) (ACN 610 008 172)
 Cyan Stone Clydesdale Development Pty Ltd (in liq) (ACN 610 008 467)
 Cyan Stone Clydesdale Holdings Pty Ltd (in liq) (ACN 610 008 510)
stephen.hathway@helmadvisory.com.au

AND TO: Connor and Co, Solicitor for the Vendor
 C/ Amanda Johnstone and Marcus Connor
amanda.johnstone@connorco.com.au
marcus.connor@connorco.com.au

WITH A COPY TO: Thomson Geer
clydesdale@tglaw.com.au
 AND
 William Roberts Lawyers
clydesdaleclassaction@williamroberts.com.au

FROM THE PURCHASER: [NAME OF PURCHASER(S)]

[DATE] 2025

BY EMAIL

Dear Sir / Madam

Notice of Rescission - Contract for the sale and purchase of land in respect of Lot [insert] in "Clydesdale", 1270 Richmond Road, Marsden Park NSW 2765 (the Contract)

- 1 I / we refer to the above Contract. Unless otherwise stated, capitalised terms have the same meaning as the defined terms in the Contract.
- 2 The Vendor has failed to satisfy the Condition Precedent on or before the Sunset Date. Accordingly, I / we hereby give notice that I / we rescind the Contract pursuant to clause 39.2 of the Contract.

Yours faithfully

SIGNED by:

.....

[INSERT NAME OF PURCHASER]

SIGNED by:

.....

[INSERT NAME OF PURCHASER]

SCHEDULE 7**Applicants' and Group Members' Undertaking**

TO William Roberts Lawyers
 Level 22, 66 Goulburn Street
 Sydney NSW
 at clydesdaleclassaction@williamroberts.com.au

FROM [Name of purchaser(s)]

[DATE] 2025

Dear Sir / Madam

- 1 I / we refer to the Deed of Settlement & Release entered into between Shashank Bist and Natalia Bist (in their own capacity and on behalf of the Group Members) and Astro Fort Clydesdale Pty Ltd ACN 675 838 507, Astro Fort Holdings Pty Ltd ACN 675 830 270, Marvia Joncos Holdings Pty Ltd ACN 671 948 502, the Agent and the Security Trustee of the financiers of the Astro Fort Parties (referred to as the **Agent** and the **Security Trustee**), among others, in relation to Federal Court of Australia proceeding no. NSD1174/2024 (**Deed of Settlement**).

Defined terms in this letter have the same meaning as in the Deed of Settlement, unless stated otherwise.

- 2 I / we confirm that I / we have made an election to participate in the Settlement and enter into a new contract with Astro Fort Clydesdale for the purchase of a lot yet to be created in the Clydesdale Development corresponding to the lot in the Presale Contract into which I / we had previously entered into, in accordance with clause 4.1(a) of the Deed of Settlement.
- 3 I / we understand that a condition of participating in the Settlement and electing to enter into a new contract with Astro Fort Clydesdale is that I / we must pay rateably for the legal costs incurred by William Roberts Lawyers, including any fees or disbursements, in connection with the Proceeding.
- 4 I / we also understand that the amount that I / we will be liable to pay will be rateable in accordance with my / our lot or lots owned and determined on a per square metre basis (**Rateable Amount of Costs**) as outlined in clause 8.4 of the Deed of Settlement.
- 5 In accordance with clause 8.5(a), I / we give William Roberts Lawyers my / our irrevocable undertaking that I / we agree to pay my / our respective Rateable Amount of Costs to William Roberts Lawyers.
- 6 This letter is governed by the laws of New South Wales, Australia.

Yours faithfully,

SIGNED on behalf of

.....

[INSERT NAME OF AUTHORISED SIGNATORY]

SIGNED by:

.....

[INSERT NAME OF AUTHORISED SIGNATORY]