



ANNEXURE A

OPT OUT NOTICE

FEDERAL COURT OF AUSTRALIA

Clydesdale Development at Marsden Park Class Action Federal Court NSD 1174 of 2024

IMPORTANT NOTICE

This is NOT a scam.

This is an important notice approved and issued to you by the Federal Court of Australia because you are likely a group member in the Clydesdale Development at Marsden Park Class Action.

As explained below, you may do one of two (2) things in response to this notice:

1. opt out of the class action if you do not wish to participate by completing the form contained in Schedule B and returning it to the NSW Registry of the Federal Court of Australia and do so by no later than 10 February 2025 (4.00PM (AEST)). If you opt out, you will lose a right to get any money or other compensation or relief (such as an order requiring the Vendors to complete your contract with them) available in this class action (but keep your right to try to get some money or other compensation or relief (such as an order requiring the Vendors to complete your contract with them) in an action you start yourself against the Respondents named in Schedule A); or
2. do nothing (and remain a group member and part of the class action).

If you choose to remain in the group, you are invited to contact William Roberts Lawyers and provide your contact details so that future notices about the class action can be sent to your preferred address. You can contact William Roberts Lawyers via one of the methods set out in paragraph 2.1 below.

If you are unsure whether you are a group member, you should contact William Roberts Lawyers by sending an email to Clydesdaleclassaction@williamroberts.com.au, calling their offices in Sydney on (02) 9552 2111, or seek your own legal advice without delay.



1. SUMMARY - IMPORTANT ASPECTS OF THIS NOTICE AND THE CLASS ACTION

- 1.1 This notice is being sent to you about a class action commenced in the Federal Court by Shashank Bist and Natalia Bist against the Nine Respondents set out in Schedule A to this notice.
- 1.2 The class action relates to the Respondents' dealings in respect of the Clydesdale Development at Marsden Park between 2020 to the current date.
- 1.3 You have been identified as a person who may have a claim against the Nine Respondents, because you entered into a Contract for the Sale and Purchase of Land with the First to Sixth Respondents (who are known as the **Vendors**).
- 1.4 The Federal Court of Australia (**Court**) has ordered that this notice be published for the information of persons who might be members of the class on whose behalf the Clydesdale Development at Marsden Park Class Action has been brought and who may be affected by the class action.
- 1.5 **You should read this notice, including the schedules to 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.**
- 1.6 **Further general information about this class action can be found at Schedule C of this notice.**
- 1.7 The solicitors running the case for the applicants are William Roberts Lawyers. The proceedings are presently not litigation funded. You will be informed if that position changes.
- 1.8 Group Members are not, and will not be, liable for any "out of pocket" legal costs by remaining in this class action. This is explained in more detail in paragraph 6(a)a.i.3 of Schedule C.

YOUR TWO OPTIONS

Option 1 – Opt out and cease to be a Group Member

- 1.9 Group Members who opt out will not be bound by the outcome of the class action and will not receive any money or other compensation or relief from the class action if the applicants case succeeds or the case settles.
- 1.10 To opt out of this class action you need to complete the below "Opt Out Notice" contained at **Schedule B**, and then return it to the Registrar of the Federal Court of Australia, New South Wales Registry at the address on the form. The Notice must be sent to the Registrar by no later than 4:00pm (Sydney time) on 10 February 2025, otherwise it will not be effective.

Option 2 – Do nothing

- 1.11 Group Members who do not opt out by 10 February 2025 will remain Group Members.

2. TWO IMPORTANT THINGS TO NOTE



- 2.1 First, this is not a scam. In this regard, you may contact the applicant's lawyers, William Roberts Lawyers and can check by visiting their website at www.williamroberts.com.au, emailing them at Clydesdaleclassaction@williamroberts.com.au, or telephoning them at their offices in Sydney on (02) 9552 2111.
- 2.2 Second, if there is anything you are unsure of, or you do not want to speak with William Roberts Lawyers (or you want to understand their involvement better), you should obtain independent legal advice from a solicitor of your choice.



SCHEDULE A

FIRST RESPONDENT	CYAN STONE CLYDESDALE ESTATE 1 PTY LTD (ACN 610 208 967) (IN LIQUIDATION)
SECOND RESPONDENT	CYAN STONE CLYDESDALE ESTATE 2 PTY LTD (ACN 610 209 106) (IN LIQUIDATION)
THIRD RESPONDENT	CYAN STONE CLYDESDALE ESTATE 3 PTY LTD (ACN 610 210 494) (IN LIQUIDATION)
FOURTH RESPONDENT	CYAN STONE CLYDESDALE PTY LTD (ACN 610 008 172) (IN LIQUIDATION)
FIFTH RESPONDENT	CYAN STONE CLYDESDALE DEVELOPMENT PTY LTD (ACN 610 008 467) (IN LIQUIDATION)
SIXTH RESPONDENT	CYAN STONE CLYDESDALE HOLDINGS PTY LTD (ACN 610 008 510) (IN LIQUIDATION)
SEVENTH RESPONDENT	ASTRO FORT CLYDESDALE PTY LTD ACN 675 838 507
EIGHTH RESPONDENT	ASTRO FORT HOLDINGS PTY LTD (ACN 675 830 270)
NINTH RESPONDENT	MARVIA JONCOS HOLDINGS PTY LTD (ACN 671 948 502)



SCHEDULE B

Form 21
Rule 9.34

OPT OUT NOTICE

No. NSD 1174 of 2024

Federal Court of Australia
District Registry: NSW
Division: General

Shashank Bist and another named in the schedule

Applicants

Cyan Stone Clydesdale Estate 1 Pty Ltd ACN 610 208 967 (in Liquidation) and
others named in the Schedule

Respondents

To: The Registrar
Federal Court of Australia
NSW District Registry
Locked Bag A6000
Sydney South NSW 1235

The person named below, a Group Member in this class action, gives notice under section 33J of the *Federal Court of Australia Act 1976*, that the person is opting out of the class action.

Name of Group Member	
Postal address of Group Member	
Telephone contact	
Email address	
ACN/ABN (if a company)	



If you are signing as the solicitor or representative of the Group Member:

Person completing this form	
Authority of person completing	
Postal address of person completing this form	
Telephone contact	
Email address	

Date:

.....
Signed by (print name)
Group Member / Lawyer for the Group Member / Group Member
representative
.....



SCHEDULE C

3. MORE INFORMATION ABOUT CLASS ACTIONS AND THIS CLASS ACTION

What is a class action?

- 3.1 A class action is an action that is brought by one person (“**Applicant**”) on his or her own behalf and on behalf of a class of people (“**Group Members**”) against another person (“**Respondent**”) where the Applicant and the group members have similar claims against the Respondent.
- 3.2 An applicant in a class action does not need to seek the consent of group members to commence a class action on their behalf. However, group members can cease to be group members by opting out of the class action. An explanation of how group members are able to opt out is found below in the section heading “Your Options - What group members need to do”.
- 3.3 Group members are “bound” by the outcome in the class action, unless they have opted out of the proceeding. A binding result can happen in two ways being either a *judgment* following a trial, or a *settlement* at any time. If there is a judgment or a settlement of a class action group members *will not* be able pursue the same claims and *may not* be able to pursue similar or related claims against the respondent in other legal proceedings. Group members should note that:
- (a) in a *judgment* following trial, the Court will decide various factual and legal issues in respect of the claims made by the applicant and group members. Unless those decisions are successfully appealed they bind the applicant, group members and the respondent. Importantly, if there are other proceedings between a group member and the respondent, it is likely that neither of them will be permitted to raise arguments in that proceeding which are inconsistent with a factual or legal issue decided in the class action.
 - (b) in a *settlement* of a class action, where the settlement provides for compensation to group members it is likely to extinguish *all* rights to compensation which a group member might have against the respondent which arise in any way out of the events or transactions which are the subject-matter of the class action.
- 3.4 If you consider that you have a claim(s) against a respondent which is / are based on your individual circumstances or otherwise additional to the claims described in the class action, then it is important that you seek independent legal advice about the potential binding effects of the class action **before** the deadline for opting out (see below at paragraph 8(b)).



What is this class action about?

- 3.5 A class action has been commenced in the Court by Shashank Bist and Natalia Bist on their own behalf and on behalf of all persons who are “group members” as defined in the proceeding against the Nine Respondents set out in Schedule A to this notice.
- 3.6 The facts of this dispute can be briefly summarised as follows.
- 3.7 Boyuan Holdings Limited (or **BHL**) advertised a number of lots of undeveloped land in Marsden Park between 2020 and 2021 which were being developed by BHL. The property development was known as “Clydesdale”.
- 3.8 The Vendors entered into contracts for the sale and purchase of land in relation to about 150 lots of land as Clydesdale (which are known as the Contracts of Sale).
- 3.9 The Vendors have not as yet finalised their position as to whether they intend to defend the claims against them.
- 3.10 You have been identified as a person who entered into a contract for the sale and purchase of land in respect of one of those lots. If you entered into such a contract with your spouse or partner, it is likely that your spouse or partner has been identified as such a person too and they too have also received this notice; if not, or in any case, you should show this notice to your spouse or partner as well.
- 3.11 All lots in Clydesdale have now been sold to a company called Astro Fort Clydesdale Pty Ltd, the Seventh Respondent.
- 3.12 Subject to the outcome of this class action, Astro Fort Clydesdale will not complete any of the Contracts of Sale entered into between you (or any other person) and the Vendors.
- 3.13 In these proceedings, amongst other things, it is alleged that Astro Fort Clydesdale induced the Vendors to breach its contract with you (and the other people who signed Contracts of Sale with the Vendors) by offering to pay the Vendors \$85.5m to sell Clydesdale to Astro Fort Clydesdale, instead of the Vendors completing its contract with you (and the other people who signed the Contracts of Sale with the Vendors).
- 3.14 It is also alleged that the Vendors’ actions in selling to Astro Fort Clydesdale and not to you (and the other entities who signed the Contracts of Sale with the Vendors) was, in all of the circumstances, unconscionable, and that Astro Fort Clydesdale (and entities related to Astro Fort Clydesdale, being the Eighth and Ninth Respondents) were involved in that unconscionable conduct.



- 3.15 The applicants allege that Astro Fort Clydesdale unlawfully conspired with the Vendors and with the Eight and Ninth Respondents to injure the Group Members by inducing the Vendors to breach its contract with you (and the other people who signed Contracts of Sale with the Vendors) and by engaging in the unconscionable conduct referred to in paragraph 3.13 above.
- 3.16 The Seventh to Ninth Respondents (which includes Astro Fort Clydesdale) are defending the proceedings and the allegations in the preceding paragraphs.
- 3.17 These proceedings seek orders from the Court that (if granted) would entitle you to either the completion of your contract for the sale and purchase of the lot you agreed to purchase or, alternatively, a sum of money to compensate you for your loss.

4. What is 'Opt Out'?

- 4.1 The Applicant in a class action does not need to seek the consent of group members to commence a class action on their behalf or to identify a specific group member. However, group members can cease to be group members by opting out of the class action. An explanation of how group members are able to opt out is found in section paragraph 8(b) below headed "How you can opt out of the class action?".

5. Are you a group member?

- 5.1 You are a group member if you are a person or an entity who entered into a contract for the purchase of land from the 'Vendors' (defined in on page one of this letter) for lots of land at Clydesdale:

- a. Precinct 3, 1270 Richmond Road, Marsden Park NSW 2765;
- b. Precinct 3.1, 1270 Richmond Road, Marsden Park NSW 2765; and
- c. Precinct 3.2, 1270 Richmond Road, Marsden Park NSW 2765.

If you are unsure whether or not you are a group member, you should contact William Roberts Lawyers on (02) 9552 2111 or email Clydesdaleclassaction@williamroberts.com.au or seek your own legal advice without delay.

6. Is a Group Member liable for any costs and charges?

- 6.1 Group Members in a class action **are not** and will not be individually responsible for the legal costs (including "out of pocket" legal costs) associated with bringing the class action. In a class action, only the Applicant is responsible for the costs.
- 6.2 If the class action is successful (that is, if money compensation or other compensation or relief is recovered), the Court will be asked to distribute the legal and (if litigation funding is obtained) funding costs, from the assets



recovered, equally among all persons who have benefitted from the class action. The effect of any such order, if made, would be that all Group Members who benefit will contribute to the legal and funding costs. That means even Group Members who do not sign up to a funding agreement might have to contribute out of their share in the same way as those that sign a funding agreement do.

- 6.3 If the class action is unsuccessful, Group Members will have no liability to pay any legal and funding costs.
- 6.4 You will not become liable for any legal costs simply by remaining as a group member for the determination of the common questions. However:
- (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 William Roberts Lawyers or other lawyers to do that work for you. A copy of the terms on which William Roberts Lawyers are acting in the class action may be obtained from them on the contact methods outlined below;
 - (b) if any compensation becomes payable to you as a result of any order, judgment or settlement in the class action, 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 Applicant in running the class action but which are not able to be recovered from the respondents; and
 - (c) class actions are often settled out of court. If this occurs in the class action, you may be able to claim from the settlement amount without retaining a lawyer.

7. What will happen if you choose to remain a group member?

- 7.1 Unless you opt out, you will be bound by any settlement or judgment of the class action. If the class action is successful, you will be entitled to share in the benefit of any order, judgment or settlement in favour of the Applicant and group members, although you may have to satisfy certain conditions before your entitlement arises.
- 7.2 If the action is unsuccessful or is not as successful as you might have wished, you will not be able pursue the same claims and may not be able to pursue related claims against the respondent in other legal proceedings.

8. Your Options - What group members need to do

(a) How can you remain a group member?

If you wish to remain a group member there is **nothing you need to do** at the present time. The Applicant will continue to bring this proceeding on your behalf up to the point where the Court determines those questions that are common to the claims of the Applicant and the group members.



However, you are invited to contact the Applicants' lawyers, William Roberts Lawyers, on the number below and register as a group member so that future notices about the class action can be sent to your preferred address.

(b) How can you opt out of the class action?

If you do not wish to remain a group member you must opt out of the class action. If you opt out you will not be bound by or entitled to share in the benefit of any order, judgment or settlement in the class action, but you will be at liberty to bring your own claim against the Respondents, provided that you issue Court proceedings within the time limit applicable to your claim. If you wish to bring your own claim against the Respondents, you should seek your own legal advice about your claim and the applicable time limit **prior** to opting out.

If you wish to opt out of the class action you **must** do so by completing a "**Notice of opting out by group member**" in the form shown below (Form 21 of the Court's approved forms), and return it to the Registrar of the Federal Court of Australia at the address on the form.

IMPORTANT: the Notice must be sent to the Registrar by no later than 4pm on 10 February 2025, otherwise it will not be effective.

You should submit the Notice of opting out by group member if:

- (i) you qualify as a group member and you wish to opt out of the class action; or
- (ii) you believe that you have been incorrectly identified as a group member, because you do not meet the criteria set out in the section headed "Are you a group member" above.

Each group member seeking to opt out should fill out a separate form.

If you are opting out on behalf of a company or business please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner).

9. Where can you obtain copies of relevant documents?

9.1 Copies of relevant documents, including the originating application, interlocutory application and the statement of claim may be obtained by:

- (a) downloading them from <https://www.williamroberts.com.au/class-actions/clydesdale-class-action/>;
- (b) inspecting them between 9am and 5pm at one of the offices of William Roberts Lawyers, contact details for which are available at



<https://www.williamroberts.com.au/class-actions/clydesdale-class-action/>
or by calling (02) 9552 2111;

- (c) by contacting the NSW District Registry of the Federal Court (contact details are available at www.fedcourt.gov.au) and paying the appropriate inspection fee; or
- (d) where appropriate arrangements have been made with the Court, inspecting them on the Federal Court website at <https://www.fedcourt.gov.au/law-and-practice/class-actions/class-actions/documents>.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact William Roberts Lawyers on 02 9552 2111 or email Clydesdaleclassaction@williamroberts.com.au or seek your own legal advice. You should not delay in making your decision.