

# FEDERAL COURT OF AUSTRALIA NOTICE AS TO PROPOSED SETTLEMENT OF THE DARWIN PFAS CONTAMINATION CLASS ACTION

## A. Important information?

1. This is being sent to you because it is likely you are a class member in the class action against the Commonwealth of Australia (**Commonwealth**) claiming compensation for damages to property values as a result of PFAS contamination around Darwin. The class action was also brought in relation to other regions throughout Australia being Bullsbrook (WA), Richmond (NSW), Wagga (NSW), Edinburgh (SA), Bandiana/Wodonga (Vic) and Townsville (Qld).
2. The solicitors acting for the applicants are **Shine Lawyers** and a company called LCM Operations Pty Ltd (**LCM**) has funded the case.
3. As you may have heard or read, settlement terms have been agreed. But because this is a class action, a judge of the Federal Court must decide whether it is a fair and reasonable settlement for the class members. The judge will have a hearing to decide whether the settlement is fair and reasonable at 10:15am on **25 August 2023**.
4. This notice is approved by the Court and explains some things about the settlement to allow you to work out whether you agree or disagree with it.

## B. What is the settlement?

5. Under the proposed settlement of the class action:
  - (a) the Commonwealth will pay **\$132.7 million** (without admitting liability) to settle all claims by class members in all the 7 regions for property value losses and for inconvenience and distress (but not any present or future claim for personal injury);
  - (b) before any of this money goes to the class members, it is proposed there will be deductions from the settlement, being approximately:
    - (i) \$15.65 million for legal costs;
    - (ii) up to \$33.175 million to LCM for funding the class action;
    - (iii) \$175,000 (in total) to be split between the applicants and certain other group members in the 7 regions who gave up their time in representing class members, or otherwise assisting in advancing group member interests; and
    - (iv) \$3 million being the estimated costs of getting what is owed to class members to them, but any interest earned on the settlement sum will be used to reduce these costs;
  - (c) the balance (which is estimated by Shine Lawyers to be around at least \$80.7 million plus interest) is to be paid to class members in the 7 regions, of which **\$9 million** is proposed to be allocated to **Darwin**. Shine Lawyers are developing a formula for the allocation of this amount among group members who register and are eligible. The allocation of the \$80.7 million between the 7 different regions is based on an assessment of how much each region is impacted by PFAS contamination, the relative strength and weaknesses of the claims of class members in each region, and the number of people within each region that are expected to participate.

6. It will be up to the judge to decide whether the settlement is fair and reasonable, and whether the proposed deductions, and division of the settlement between class members, is fair and reasonable.

**C. Are you eligible to participate in the settlement?**

7. You are an eligible class member if, as at 24 November 2016, you owned land and/or were the lessee of a crown lease in perpetuity located in or around Darwin (being within the purple line) as per the map below:



8. Some class members have already registered with Shine Lawyers and LCM, but others have not. If you have not already registered then in order to participate in the proposed settlement you must register by completing a **Registration Form**, either online OR by filling out the attached one and returning it to the details on the form.

9. The **deadline** for registration is 30 June 2023. If you do not register by the deadline, then:
- you will not be eligible to participate in the proposed settlement, unless the Court is satisfied that it is just for you to do so; and
  - if the settlement is approved by the Court, your right to compensation in relation to the matters in the class action will be extinguished.
10. Not all class members will receive a distribution under the settlement. In particular, if you own/lease in perpetuity a commercial or industrial property which does not have a water bore, it is proposed that you will not receive a distribution. This is because the applicants and Shine Lawyers say that the value of this type of property has not been impacted by PFAS contamination.

#### D. How much will you receive under the settlement?

11. If the settlement is approved on the basis of a proposed “Settlement Distribution Scheme”, then eligible registered class members will receive an amount calculated in accordance with a formula based on:
- the approximate diminution in the value of class members’ land based on what is said by the applicants and Shine Lawyers to be the reduction in the value of the land of class members. This value will be affected by what category of property you had. Properties with water bores are said to have reduced more, because the PFAS contamination particularly affects the groundwater. Further, as noted above it is proposed that group members who own/lease in perpetuity commercial or industrial properties which do not have a water bore will not be eligible to receive any amount in compensation.

If you are an eligible registered class member you will be placed in one of the following categories, based on data you have already provided OR data you supply when you register:

Category
Rural residential (with Water Bore)
Residential (with Water Bore)
Commercial or Industrial (with Water Bore)
Rural residential (without Water Bore)
Residential (without Water Bore)
Commercial or Industrial (without Water Bore)

- a fixed amount for inconvenience and distress (again depending on whether you have a water bore, but also depending on whether you live in the property or not, because this category of loss is generally only suffered by people who live in the property).

If you are an eligible registered class member you will be placed in one of the following categories, based on data you have already provided OR data you supply when you register:

Category
Natural Person (Owner-Occupier) – Property with Bore

Natural Person (Owner-Occupier) – Property without Bore
Natural Person (Non-Owner Occupier)
Non-Natural Person

(c) The applicants' lawyers consider that properties closer to the Base are likely to have experienced a greater interference with the use and enjoyment of their land, and may be allocated more compensation than properties further away from the Base.

12. **An estimate of your settlement entitlement will be able to be prepared and sent to you after the registration deadline (that is, you will receive it by 4 August 2023).** Among other things, it may be affected by how many people who have not previously registered now register to participate.

13. Please note:

- Class members will not receive the full value of their claims under the settlement (as it is a compromise, and has to take into account the risk the class action might lose and there will be proposed deductions from the settlement as set out in clause 5);
- If you are unsure whether you are a class member, please contact Shine Lawyers using the details at the end of this notice;
- As to legal costs, the Court has put in place a process by which the fairness of those legal costs will be reviewed by a third party who understands these things.

## E. Your Options

<p>If you <u>support</u> the proposed settlement and have <u>already registered</u> with Shine Lawyers and LCM</p>	<ul style="list-style-type: none"> <li>• You do not have to do anything.</li> <li>• If you are eligible to participate, you will receive a further notice detailing an estimate of your Settlement Entitlement. This notice will set out your further options, including how to raise any disagreement with the proposed settlement with the Court.</li> <li>• If the settlement is approved and you are eligible to participate, you will receive a notice setting out the final calculation of your Settlement Entitlement. You will then receive your Settlement Entitlement</li> </ul>
<p>If you <u>support</u> the proposed settlement <u>but have not already registered</u> with Shine Lawyers and LCM</p>	<ul style="list-style-type: none"> <li>• You must register by 30 June 2023, by completing a "Registration Form" either online or and mailing it to Shine Lawyers at the details on the form.</li> <li>• If you register, and are eligible to participate, you will receive a further notice detailing an estimate of your Settlement Entitlement. This notice will set out your further options, including how to raise any disagreement with the proposed settlement with the Court.</li> <li>• If the settlement is approved, and you are eligible to participate, you will receive a notice setting out the final calculation of your Settlement Entitlement. You will then receive your Settlement Entitlement.</li> <li>• <b>If you do not register and the settlement is approved, then your right to compensation will be extinguished.</b></li> </ul>

<p>If you <u>disagree</u> with the proposed settlement (or any aspect of how it is proposed to be distributed)</p>	<ul style="list-style-type: none"> <li>• You should tell the Judge and the parties why.</li> <li>• This is best done by sending written material for the Court to consider well before the settlement approval hearing on 25 August 2023. This should be done by sending the material to <a href="mailto:haswellcomments@fedcourt.gov.au">haswellcomments@fedcourt.gov.au</a>, and the Court would prefer if this was sent by <b>11 August 2023</b>. You can also tell the Court your concerns at the settlement approval hearing by either appearing at the hearing in person or via video link if you are unable to travel to Sydney. If you want to speak to the Judge about the settlement but are unable to travel in person to the settlement approval hearing in Sydney arrangements can be made by sending an email to <a href="mailto:haswellcomments@fedcourt.gov.au">haswellcomments@fedcourt.gov.au</a>.</li> <li>• Please note, even if you object, you will still receive money from the settlement if it goes ahead as long as you have registered. This means that if you object and still want to participate in the settlement if you have not already registered then you have to submit a Registration Form (either online or in the mail)). <b>If you do not register and the settlement is approved, then your right to compensation will be extinguished.</b></li> </ul>
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#### F. Where can you get further information?

14. If you want any more information of documents, you should not contact the Court but either:
- a) download documents from <https://www.shine.com.au/service/class-actions/pfas-contamination-class-actions>; or
  - b) email Shine Lawyers at [pfaslegal@shine.com.au](mailto:pfaslegal@shine.com.au), or telephone Shine Lawyers on 1800 066 173.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Shine Lawyers or seek your own legal advice from your solicitor. Please bear in mind that while you should contact Shine Lawyers for further information as necessary, if you do not require further assistance, it is in the interests of all class members to keep any further costs to a minimum.

# DARWIN PFAS CLASS ACTION

## GROUP MEMBER REGISTRATION FORM

Or you can register online at: <https://www.shine.com.au/service/class-actions/pfas-contamination-class-actions>

### Part 1: Contact Details

*(All correspondence will be sent to this person, including any cheques)*

Contact name

*Title*

*First name*

*Surname*

Company

Position

Phone

Mobile

Email

*(Please keep us*

*informed of any changes to your preferred email address)*

Postal address




Postcode



Suburb/Town

State Country

### Part 2: Group Member Details

**NOTE: The Group Member is the person / entity that will be bringing the claim, the registered owner(s) of affected property. If the Group Member is a trustee, please specify "[Insert Trustee(s) Name] as trustee for [Insert Trust Name]"**

Full name of Group Member

*(Please provide the name of all registered owners of affected property)*

ACN/ABN/ARSN

*(if corporation)*

Registration No.

*(if foreign company)*

### Part 3: Property Details

Please complete all fields in this section as this information is required to make a claim

Street Address of affected property (not PO Box)

Suburb/Town

Postcode:

State:

Country

Australia

Do you have a groundwater bore (Tick)? Yes [  ] No [  ]

Do you live at the property (Tick)? Yes [  ] No [  ]

**NOTE: If you own/lease in perpetuity more than one property under the same group member name, please copy this page and complete Parts 2 and 3 for each property.**

### Part 4: Signing by the Group Member

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

Signature

Signature

Print name

Print name

Date

**Note: If there is not sufficient space on the first two pages to include all of your relevant information, please copy and attach additional pages.**

**PLEASE RETURN TO:**

**EMAIL:** Scan or take a photo and email to [pfaslegal@shine.com.au](mailto:pfaslegal@shine.com.au)

**POST:** PO Box 12011 George Street QLD 4003