



# FEDERAL COURT OF AUSTRALIA

## NOTICE AS TO PROPOSED SETTLEMENT OF THE KATHERINE 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 Katherine.
2. The solicitors acting for the applicants are **Shine Lawyers**, and a company called Omni Bridgeway Ltd (which used to be called IMF Bentham) (**Omni Bridgeway**) 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 settlement for the class members. The judge will have a hearing to decide whether the settlement is fair at 10:15 on 4-5 June 2020.
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 Katherine PFAS Contamination Class Action:
  - (a) the Commonwealth will pay **\$92.5 million** (without admitting liability) to settle all claims by class members 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, there will be deductions from the settlement, being:
    - (i) \$12,700,000 for the legal costs (which is more than the legal costs said to be incurred, but include some amounts paid by class members in the Oakey PFAS class action which are said to have benefitted class members in the Katherine PFAS class action);
    - (ii) \$23,125,000 to Omni Bridgeway for funding (which is more than the fee agreed to be paid by class members in the Katherine PFAS Class Action because it includes some of Omni Bridgeway's fee agreed to be paid by class members in the Oakey PFAS Class Action, which is said to have benefitted class members in the Katherine PFAS class action);
    - (iii) \$127,600 to Omni Bridgeway for other relevant out-of-pocket expenses (plus an additional amount of not more than \$100,000 incurred by Omni-Bridgeway in the Oakey PFAS Class Action which is said to have benefitted class members in the Katherine PFAS class action);
    - (iv) \$40,000 to the applicants for their time and expense in representing class members; and
    - (v) \$950,000 being the estimated costs of getting what is owed to class members to

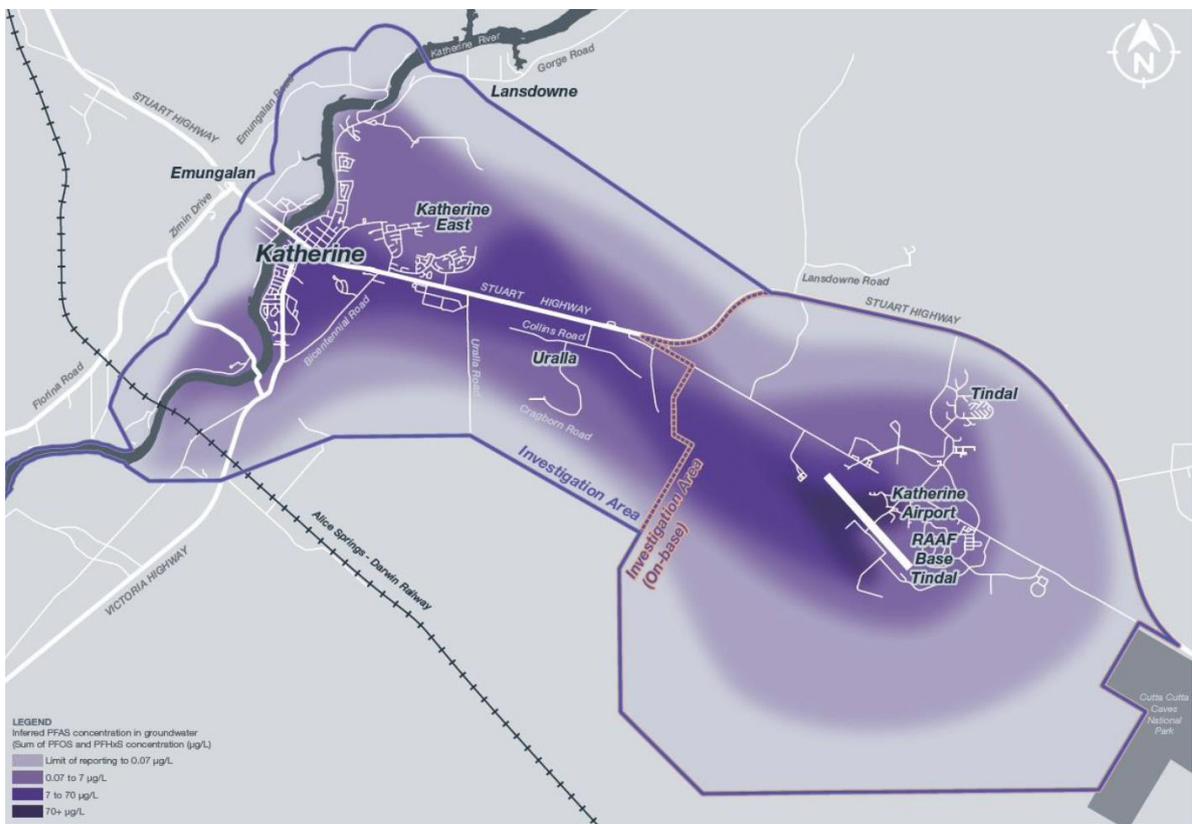


them, but any interest earned on the settlement sum will be used to reduce these costs;

- (c) What is left (which is estimated by the solicitors to be about **\$55.5 million**) is to be paid to class members, according to a formula.

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

- 6. You are a class member and eligible to participate in the settlement if you own land in or around Katherine (being within the purple line) as per the map below:



- 7. If you are unsure if you are a class member, please contact Shine Lawyers on the details at the end of this notice, or seek legal advice.
- 8. Some class members have already registered with Shine Lawyers and Omni Bridgeway, but others have not. If you have not already registered then in order to be eligible 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 **7 May 2020**. If you do not register by the deadline, then:
  - (a) 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;
  - (b) if the settlement is approved by the Court, your right to compensation in relation to the



matters in the class action will be extinguished.

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

10. If the settlement is approved on the basis of the proposed Settlement Distribution Scheme, you will receive an amount calculated in accordance with a formula based on:

- (a) the approximate diminution in the value of class members' land based on what is said by the applicants and their solicitors 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.

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

- (b) 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). 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

11. **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 14 May 2020).** Among other things, it may be affected by how many people who have not previously registered in the Katherine PFAS Class Action now register to participate.

12. 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);
- If you are unsure 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.

## F. Your Options

<p>If you <u>support</u> the proposed settlement but have <u>already registered</u> with Shine and Omni Bridgeway</p>	<ul style="list-style-type: none"> <li>• You do not have to do anything, and you will get the money payable to you once it has been finally calculated.</li> </ul>
<p>If you <u>support</u> the proposed settlement <u>but have not already registered</u> with Shine and Omni Bridgeway</p>	<ul style="list-style-type: none"> <li>• You must register by <b>7 May 2020</b>, by completing a “Registration Form” either online <u>or</u> and mailing it to Omni Bridgeway at the details on the form.</li> <li>• If you register, 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, 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 with</u> 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 hearing. This should be done by sending the material to <a href="mailto:nswdr@fedcourt.gov.au">nswdr@fedcourt.gov.au</a>, and the court would prefer if this was sent by 7 May 2020. You can also tell the Court your concerns at the hearing. Arrangements will be made to allow you do this if you want. Due to the coronavirus, a hearing will probably not happen in a courtroom where people come along in person, and if you want to speak, this will likely involve providing you with a video link or telephone link. If you want to speak to the Judge about the settlement at the hearing this can be arranged by you sending an email to <a href="mailto:nswdr@fedcourt.gov.au">nswdr@fedcourt.gov.au</a>.</li> </ul> <p>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 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></p>



**G. Where can you get further information?**

13. 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/katherine-contamination>; or
- b) email Shine Lawyers at [KatherineContamination@shine.com.au](mailto:KatherineContamination@shine.com.au), or telephone Shine Lawyers on 1800 066 105, and ask to speak to Alexandra Marlborough;
- c) email Omni Bridgeway at [katherine@imf.com.au](mailto:katherine@imf.com.au); or telephone Omni Bridgeway on 1800 016 464.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Shine Lawyers, Omni Bridgeway or seek your own legal advice from your family 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.



6

# KATHERINE PFAS CLASS ACTION

## GROUP MEMBER REGISTRATION FORM

Or you can register online at: <https://www.imf.com.au/katherine>

### 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

Suburb/Town

State  Postcode  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:



7

Do you have a  
groundwater bore?

Yes

No

Do you live at  
the property?

Yes

No

**NOTE: If you own 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 [katherine@imf.com.au](mailto:katherine@imf.com.au)**

**POST: Omni Bridgeway Limited, PO Box 5106, St Georges Terrace, Perth, WA 6831**

**FAX: 08 9225 2399**