

## Annexure B

**SUPREME COURT OF VICTORIA**  
**FALLS FESTIVAL CLASS ACTION**  
**BURKE v ASH SOUNDS PTY LTD**  
**(S CI 2017 00891)**

### **NOTICE OF PROPOSED SETTLEMENT IN FALLS FESTIVAL CLASS ACTION**

The Supreme Court has ordered that this notice be published to inform you about (a) the right to participate in a proposed settlement of the class action and (b) the right to object to the proposed settlement. You should read this notice carefully as the matters set out below may affect your legal rights.

This Notice applies to persons who suffered an injury as a result of the crowd crush that occurred at the Falls Music and Arts Festival on 30 December 2016. Please be advised that:

- A. Any group member who wishes to claim compensation for their injuries from the settlement of the proceeding must register their claims according to the procedure described in this Notice;
- B. Any group member who wishes to object to the proposed settlement of the class action must complete and send a Notice of Objection to Maddens Lawyers according to the procedure described in this Notice.

**A failure to register a claim has serious consequences.** If the proposed settlement is approved by the Court, you will only be permitted to claim compensation from the settlement amount if you have registered your claim, and you will lose the right to sue the defendants separately.

**There is a deadline of 17 August 2020 to register a claim to participate in any settlement of the Falls Festival class action proceeding and/or to object to the proposed settlement of the class action.**

Any questions you have concerning the matters contained in this notice should not be directed to the Court. If there is anything in this notice that you do not understand, you should seek legal advice.

#### **1. What is the class action about?**

On 15 March 2017, Michela Joy Burke (**the Plaintiff**) commenced this representative proceeding in the Supreme Court of Victoria against Ash Sounds Pty Ltd trading as The Falls Music and Arts Festival (ABN 67 160 019 152) (**the Defendant**).

The representative proceeding is brought by the Plaintiff on her own behalf and on behalf of all persons who suffered injury as a result of the crowd crush which occurred at the exit of the Grand Theatre at the Falls Festival in Lorne, Victoria at approximately 9:50pm on 30 December 2016 (**Crowd Crush**). Persons fitting that description are called **group members**.

In an Amended Defence dated 15 November 2018 the Defendant admitted liability for the Crowd Crush.



## 2. Am I a Group Member?

You are a Group Member in the class action if you suffered personal injury (physical or psychiatric) as a result of the Crowd Crush.

In addition to the plaintiff, some Group Members have registered claims with Maddens Lawyers. Those Group Members are referred to as Registered Group Members (**Registered Group Members**).

## 3. What is the proposed settlement?

The parties have agreed to a settlement of the class action, under which the Defendant has agreed to pay \$5,700,000 (**Settlement Sum**) inclusive of the plaintiff's legal costs.

The terms of the settlement of the proceeding are set out in a Deed of Settlement that has been signed by the Plaintiff and the Defendant (**Agreement**). The settlement cannot take effect without Court approval. The plaintiff has asked the Court to approve:-

- (a) the proposed settlement;
- (b) the payment of the plaintiff's legal costs from the Settlement Sum; and
- (c) a scheme for the distribution of the balance of the Settlement Sum to Registered Group Members (**Settlement Distribution Scheme**).

The Court will consider whether or not to finally approve the settlement, the plaintiff's legal costs and the Settlement Distribution Scheme on 4 September 2020.

### *Legal costs*

If the settlement is finally approved, the plaintiff's legal costs payable to Maddens Lawyers, including the costs of Maddens Lawyers administering the Settlement Distribution Scheme, will be paid from the Settlement Sum. The plaintiff's costs will be assessed by an independent costs assessor and the assessment will be provided to the Court. Only costs approved by the Court will be payable.

If you want to seek your own advice on the proposed settlement, you are responsible for your own costs in obtaining that advice.

### *Plaintiff's reimbursement payment*

If the settlement is approved, the plaintiff will receive \$15,000.00 from the settlement sum. This payment is intended to compensate her for the personal burden of being the lead plaintiff, a role which has benefited Registered Group Members as a whole. This amount is in addition to any amount she may be entitled to by way of compensation under the Settlement Distribution Scheme for injuries suffered as a result of the Crowd Crush.

### *Distribution of the balance of the Settlement Sum*

If the settlement is approved, the balance of the Settlement Sum will be distributed to Registered Group Members in accordance with the approved Settlement Distribution Scheme.

You may request a copy of the Settlement Distribution Scheme from Maddens Lawyers on a confidential basis.

Under the Settlement Distribution Scheme, the assessed loss of the plaintiff and each Registered Group Member will be determined by Tim Tobin SC based on the information which he has obtained directly from group members and also information that Maddens Lawyers has received and obtained in relation to each Registered Group Member's personal injury.



#### 4. Participation in the proposed settlement

If the settlement is approved, only Registered Group Members will be entitled to participate in the settlement and receive compensation. Registered Group Members will be entitled to participate in the settlement in accordance with the terms of a Settlement Distribution Scheme approved by the Court. Registered Group Members will be bound by the settlement and will not be able to bring any further claim against the Defendant for any injury suffered as a result of the Crowd Crush.

Group Members who suffered an injury as a result of the Crowd Crush but who are not Registered Group Members will **not** be entitled to participate in the settlement or receive compensation under the Settlement Distribution Scheme. Those Group Members **will be** bound by the settlement and **will not** be entitled to bring a separate claim against the defendants for any injury suffered as a result of the Crowd Crush.

If you are unsure whether you are a Registered Group Member (and therefore entitled to participate in any settlement that may be approved) or a Group Member, please contact Maddens Lawyers on 1800 815 228 or seek your own legal advice immediately.

If you are not currently a Registered Group Member and you **do** want to participate in the settlement then you **must** complete the “Claimant Registration Notice” which is Annexure 1 to this Notice and you **must** return the Claimant Registration Notice to Maddens Lawyers or the Supreme Court Registry before **4:00pm** on **17 August 2020**.

**If you do not submit a completed Claimant Registration Notice by the deadline you will lose the right to make any claim against the defendants in relation to the Crowd Crush.**

If you are a Group Member but you **do not** want to participate in the proposed settlement then there is nothing you need to do. After the deadline passes you will lose the right to make any claim against the Defendant in relation to the Crowd Crush.

#### 5. Further information about the proposed settlement

Registered Group Members can contact Maddens Lawyers on 1800 815 228 for further information in relation to the proposed settlement, including legal costs, on a confidential basis.

#### 6. What you must do

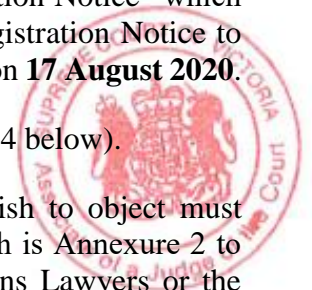
There are up to four options which you must consider.

Option 1 *If you are not currently a Registered Group Member* and you **do not** want to participate in the settlement then you do not need to do anything.

Option 2 *If you are not currently a Registered Group Member* and you **do** want to participate in the settlement then you **must** complete the “Claimant Registration Notice” which is Annexure 1 to this Notice. You must return the Claimant Registration Notice to Maddens Lawyers or the Supreme Court Registry before **4:00pm** on **17 August 2020**.

You may also wish to **object to the settlement** (see options 3 and 4 below).

Option 3 *Registered Group Members who oppose the settlement* and wish to object must complete the “Notice of Objection to Proposed Settlement” which is Annexure 2 to this Notice. You must return the Notice of Objection to Maddens Lawyers or the



Supreme Court Registry by **4:00pm** on **17 August 2020**. You may be invited to come to Court on 4 September 2020 to argue your objection.

Option 4 ***Registered Group Members who support the settlement*** do not need to do anything.

If you are not sure what to do, you should contact Maddens Lawyers or seek independent legal advice. You must act quickly because the deadline to register with Maddens Lawyers and for objections and is **4:00pm** on **17 August 2020**.

***When will any objection(s) be considered***

The Court has ordered that any objections to the proposed settlement (made in accordance with Option 3 above) will be considered by the Court at the Supreme Court, Melbourne, Victoria on 4 September 2020.

If there are no objections, or the objections are overruled, then the settlement will be given approval by the Court. It will then take effect. When it takes effect, Registered Group Members will have their claims assessed in accordance with the Settlement Distribution scheme to determine their compensation entitlements.

**7. Address for questions**

If you have any questions about the proposed settlement or this notice, you can contact Maddens Lawyers at any time, or seek your own independent legal advice.

***Contact details for Maddens Lawyers***

Falls Festival Class Action  
Maddens Lawyers  
219 Koroit Street  
Warrnambool VIC 3280  
Telephone: (03) 5560 2000  
Email: [jlw@maddenslawyers.com.au](mailto:jlw@maddenslawyers.com.au)

***Contact details for the Supreme Court of Victoria***

Note: Questions you have concerning the matters contained in this notice should not be directed to the Court.

Att: Deputy Registrar – Common Law  
Supreme Court  
Ground Floor, 436 Lonsdale Street, Melbourne 3000  
Telephone: 03 9603 9300

Email: [ldclassactions@supcourt.vic.gov.au](mailto:ldclassactions@supcourt.vic.gov.au)



**Annexure 1**

**Burke v Ash Sounds Pty Ltd S CI 2017 00891**

*Falls Festival Class Action*

**CLAIMANT REGISTRATION NOTICE**

Please complete a separate form for each group member who wishes to register.

**Details of the group member**

Full name of group member (print):

Address of group member: .....

Email of group member: .....

The abovenamed group member registers as a group member entitled to participate in any settlement of the proceeding.

**Details of the person completing this form**

Signed:

Name of person signing (print):

Telephone:

Postal address:

Dated: 2020

**Maddens Lawyers needs to receive this form by 4:00pm, 17 August 2020. Please send completed forms by post, fax or email to:**

Maddens Lawyers  
219 Koroit Street  
Warrnambool VIC 3280  
Fax: 03 5560 2099  
Email: [jlw@maddenslawyers.com.au](mailto:jlw@maddenslawyers.com.au)



**Annexure 2**

**Burke v Ash Sounds Pty Ltd S CI 2017 00891**

*Falls Festival Class Action*

**NOTICE OF OBJECTION TO PROPOSED SETTLEMENT**

The person identified below:

1. was injured in the Crowd Crush at the Falls Festival; and
2. is a Group Member in this class action; and
3. wishes to object to the proposed settlement of the class action.

The Group Member's contact details are as follows:

Name of Group Member:

Telephone number:

Postal address:

Email address:

Signed:

If nominating a contact person who is not the named Group Member, please state the contact's name and relationship to the Group Member:

The Group Member has read the "Notes for Objectors" below: Yes / No (circle one)

**Notes for Objectors:** The Court's Orders made on **3 August 2020** require that Objectors deliver to Maddens Lawyers, by **4.00 pm** on **17 August 2020**, any written submissions (not exceeding 2 pages in length) and any affidavit evidence the Objector wishes to rely on in support of their objection to the proposed settlement.

