

**LYNCH MEYER**

L  
A  
W  
Y  
E  
R  
S

Level 2, 190 Flinders St  
Adelaide, SA 5000  
GPO Box 467  
Adelaide, SA 5001  
DX 120 ADELAIDE

**Telephone**  
08 8223 7600  
**Facsimile**  
08 8223 2722 (Litigation)  
08 8223 4348 (Commercial)  
www.lynchmeyer.com.au

**Associated Offices**  
**Brisbane**  
Thynne & Macartney  
**Sydney**  
Dibbs Barker Gosling  
**Melbourne**  
Russell Kennedy

The Firm's Associated  
Offices are affiliated only  
and are not in partnership.

5 October, 2001

Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

Dear Sir/Madam,

**Re: Notification of Exclusive Dealing - Architectural Projects Pty Ltd**

Please find enclosed Notification and our cheque in the sum of \$1,000.00 for payment of your fee.

Yours faithfully  
**LYNCH MEYER**

Per:

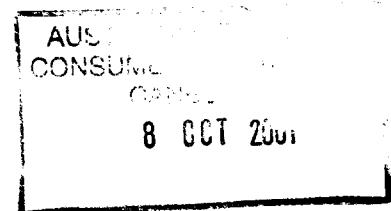
*R Woods*

*for*  
Sam Appleyard  
Senior Associate

Direct Line: 8236 7681  
Email: [sappleyard@lynchmeyer.com.au](mailto:sappleyard@lynchmeyer.com.au)

Enclosure

<b>FILE No:</b>
<b>DOC:</b>



Our Ref: SMA:

document3

# COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - Subsection 93(1)

Form G

## Exclusive Dealing: Notification

To the Australian Competition and Consumer Commission:-

Notice is hereby given, in accordance with subsection 93(1) of the Trade Practices Act 1974 of particulars of conduct or of proposed conduct of a kind referred to in subsection 47 (2), (3), (4), (5), (5), (6) or (7), or paragraph 47 (8) (a), (b) or (c) or (9) (a), (b), (c), or (d), of that Act in which the person giving notice engages or proposes to engage.

(PLEASE READ DIRECTIONS AND NOTICE ON BACK OF FORM)

1. (a) **Name of person giving notice:-**  
Architectural Projects Pty Ltd ACN 080 085 516
- (b) **Short description of business carried on by that person:-**  
A project for the development of residential townhouses housing at Mawson Lakes involving the development and marketing of new dwellings and residential land created.
- (c) **Address in Australia for service of documents on that person:-**  
C/- S.M. Appleyard  
Lynch Meyer, Lawyers  
190 Flinders Street  
ADELAIDE SA 5000
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:-**  
Contracts for sale of residential allotments at "Mawson Lakes", South Australia.
- (b) **Description of the conduct or proposed conduct:-**  
Refer annexure A.
3. (a) **Class or classes of persons to which the conduct relates:**  
Purchasers of residential allotments within the Mawson Lakes Development.
- (b) **Number of those persons:-**
  - (i) At present time: proposed ~~16-20~~ 24 - 28 Row
  - (ii) Estimated within the next year: proposed ~~16-20~~ 24 - 28 Row
- (c) **Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:-**  
Not known - refer attached submission
4. **Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:-**  
Stuart McRae Appleyard, Lynch Meyer, Lawyers, 190 Flinders Street, Adelaide SA 5000

Dated the 26<sup>th</sup> day of September 2001

Signed by/on behalf of the person giving this notice

.....  
Signature

**RAYMOND F. DE WEERD**

Full Name

.....  
Director, Architectural Projects Pty Ltd

## **ATTACHMENT A**

1. Architectural Projects Pty Ltd ("the Developer") is a company incorporated in the State of, and registered or entitled to be registered as a building contractor in Victoria.
2. The Developer is registered, or is entitled to be registered as the proprietor of allotments 13, 15, 600 and 207 at Mawson Lakes in South Australia.
3. The Developer has or will acquire the allotments for the purposes of erecting attached townhouse improvements on the subject land in accordance with the Community Titles Act.
4. The Community Titles Act allows a Developer to stage its developments and effect sales of allotments created under that Act, or completed improvements, being lots and dwellings, as demand allows.
5. The Developer was proposing to effect building works on the allotments through an associated company and allow purchasers the option of acquiring the land component and entering a building contract with the associated company for the erection of improvements of an allotment. The effect of this would allow a purchaser to pay stamp duty on the land component only, rather than a higher stamp duty on a finished product of land and dwelling.
6. The Developer is ready to proceed with its development on the allotments, however registration of its associated building company in South Australia may not be in place for some period of time.
7. As a consequence, the Developer has explored the option of utilising a building entity registered for building work in South Australia at an equivalent cost.
8. In circumstances where a purchaser elects to avail itself of the land purchase, it will be a condition of its contract that it enter into a building contract with a third party builder to complete the improvements on the allotment being one of eight attached townhouses.
9. The development contract entered by the Developer with the relevant planning authority provides that the Developer erect, or procure the erection of improvements in accordance with designs approved by the Development Authority, being either four attached townhouses or eight attached townhouses. Due to the variation in the method of erecting improvements utilising a third party company, and requiring a purchaser of a unit to contract with that party to erect improvements, that conduct is likely to breach Section 47(6) of the Trade Practices Act, being conduct commonly known as third line forcing.
10. Had the Developer been able to utilise its original proposal (as outlined in item 5 above) pursuant to Section 47(12) of the Trade Practices Act, exclusive dealing would not apply as the bodies corporate are related to each other, within the meaning of Section 4A of the Trade Practices Act.
11. But for the change in the identity of the Builder, the design and end product acquired by a Purchaser will remain as a fully planned completed product.
12. The potential for third line forcing arises where a purchaser seeks to avail itself of the benefit of acquiring the land, and entering into a building contract direct for the erection of the improvements.
13. The Developer believes that the benefit arising from the project being completed as attached townhouses by one builder for each development allows for a packaged arrangement for house and land and will have no impact on the competition and choice in the market.
14. It is submitted that no detriment is likely to result from the conduct.