

LYNCH MEYER

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

21 December, 2001

The General Manager
Adjudication Branch
Australian Competition & Consumer Commission
PO Box 119
DICKSON ACT 2602



Dear Mr Grimwade,

Re: Notification Application

We act on behalf of the Delfin Property Group generally.

Enclosed please find Notification Application on behalf of Delfin Holroyd Pty Ltd, and Delfin Realty Pty Ltd, in respect of proposed conduct which may give rise to conduct commonly known as third line forcing together with a cheque in the sum of \$200.00 representing the application fee.

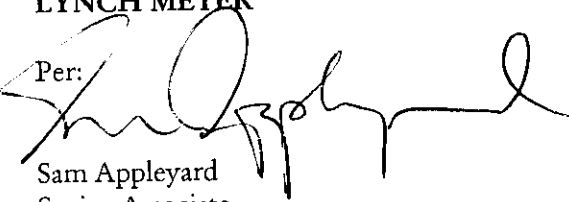
The background to the matter is set out in Annexure A of the attached Application, with the proposed conduct set out at clause 12.

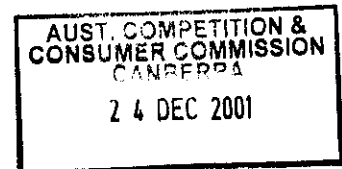
In our submission, we consider it unlikely that the detriment to the public (if any) from the conduct would outweigh the likely benefit and look forward to your favourable consideration of the Application.

Should you require any further information relating to the matter kindly contact me at your convenience.

Yours faithfully
LYNCH MEYER

Per:


Sam Appleyard
Senior Associate



Direct Line: 8236 7681
Email: sapplyard@lynchmeyer.com.au

Enclosure

Lynch Meyer advises that our office will be closed from Monday 24 December 2001
and will reopen on Thursday 27th December 2001.
We take this opportunity to wish you a safe and happy Christmas and New Year.

Our Ref: SMA:

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COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - Subsection 93(1)

Form G

Exclusive Dealing: Notification

To the Australian Competition and Consumer Commission:-

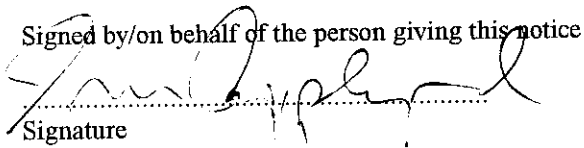
Notice is hereby given, in accordance with subsection 93(1) of the Trade Practices Act 1974 of particulars of conduct or of proposed conduct of a kind referred to in subsection 47 (2), (3), (4), (5), (5), (6) or (7), or paragraph 47 (8) (a), (b) or (c) or (9) (a), (b), (c), or (d), of that Act in which 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:-**
Delfin Holroyd Pty Ltd (ACN 084 756 034) and Delfin Realty Pty Ltd (ACN 007 708 572).
- (b) **Short description of business carried on by that person:-**
Development and marketing of residential land and improvements at Walpole Street, Merrylands NSW 2160.
- (c) **Address in Australia for service of documents on that person:-**
C/- Lynch Meyer, Lawyers (PO Box 467
190 Flinders Street ADELAIDE SA 5001)
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 Allotments and Building Contracts for those Allotment at Merrylands NSW
- (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 Allotments at the Merrylands Developments.
- (b) **Number of those persons:-**
 - (i) At present time: nil - sales not commenced
 - (ii) Estimated within the next year: approximately 29
- (c) **Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:-**
Not yet known
4. **Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:-**
Mr S M Appleyard, Lynch Meyer, Lawyers, 190 Flinders Street, Adelaide 5000

Dated the 21st day of December 2001

Signed by/on behalf of the person giving this notice


Signature

STUART McRAE APPLEYARD

LYNCH MEYER, LAWYERS
as Solicitors & Agents for
Delfin Holroyd Pty Ltd and Delfin Realty Pty Ltd

ATTACHMENT A

Background

1. Holroyd City Council ("the Owner") is the registered proprietor of a residential development site ("the Land") at Walpole Street, Merrylands, New South Wales.
2. Pursuant to a Development Agreement dated 23rd March 1999 the Owner appointed Delfin Holroyd Pty Ltd ("Delfin") to undertake on behalf of Council the planning, development, construction and sale of the Land to be known as Holroyd Gardens.
3. The Land comprises the former Goodlet and Smith brick making plant which ceased operations in the late 1970's and was purchased by the Owner in the early 1990's for the purposes of development and incorporation with the adjoining major park complex.
4. After expressions of interest, Delfin was selected as the preferred developer and as development manager is to develop the infrastructure for and sub-divide the Land to enable its use for residential and other purposes.
5. Holroyd Gardens is intended as a new medium and high density urban village set within the context of an Historic Precinct and adjacent parkland environment ("the Project"). Many remnants of the old brickworks will be retained and actively used within the Project to create areas that are unique and remember the history of the land.
6. The Project will result in the development of a fully serviced residential neighbourhood consisting of some 332 "dwelling units" comprising single dwellings, town homes, duplex, apartments, in addition to the establishment of a Heritage Precinct, Linear Parkway, Botanic Lake, extension of Holroyd Gardens Park, and significant stormwater drainage improvements to "A'Becketts Creek" pursuant to a Master Plan.
7. The Project is to be staged over an approximate 4 year period and will utilise a number of builders to provide a wide range of housing choice to meet diverse aspirations and needs of individuals and families of all ages and backgrounds. These stages will depend on market demand and be reviewed annually.

8. Market research indicates that purchasers are looking for alternatives to the existing product generally available throughout the target market area and in accordance with design guidelines Delfin will procure the development of a diverse range of housing types including:-
 - corner houses, terrace houses, courtyard houses and duplex houses with a provision for a mixture of 2, 3 and 4 bedroom dwelling types comprising two storey product, utilising zero lot line construction and where appropriate:-
 - townhouses - attached two storey dwellings comprising 2 and 3 bedroom accommodation with carparking under;
 - apartments - 1, 2, 3 and 4 bedroom units in a mix of two to seven storey buildings with large balconies, high quality fixtures and security features.
9. Building forms will incorporate measures to emphasise reduced energy consumption through passive solar energy principles, effective insulation, appropriate seasonal air movement capability, the use of renewable materials and the selection of low energy use or "energy star" appliances.
10. The Project is to be developed such that only residences and units may be purchased by the public. Accordingly Delfin intends to enter into arrangements with builders, in accordance with design guidelines for the Project, to construct units or dwellings on lots as specified by Delfin for sale.
11. Delfin Realty Pty Ltd is a licensed real estate agent engaged by Delfin to conduct the selling of land and dwellings in the Project.

Conduct

12. To accord with the Master Plan, Delfin and Delfin Realty will ensure the sale of land and improvements as a package by requiring simultaneous exchange of:-

- a contract for sale of an allotment by the Owner to a Purchaser; and
- a building contract between a Builder and a Purchaser whereby the Builder undertakes to construct a dwelling upon the lot after completion of transfer of title in the lot.

Of the 332 proposed dwellings, only 33 attached homes will be subject to this requirement.

13. Delfin has recognised expertise in community development of land for residential and commercial purposes, and its marketing and sales.
14. Delfin:-
 - considers the facts advanced in respect of this Notification demonstrates substantial public benefit arising from the Project as proposed;
 - considers the requirement that Purchasers choose from display Builders nominated for the Project for allotments sold in a packaged arrangement for house and land will have no impact on competition and choice in that market; and
 - submits that the likely public benefit will outweigh any detriment likely to result from the conduct.