

17 November 2003

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Mr Tim Grimwade  
General Manager, Adjudications Branch  
Australian Competition & Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

FILE No:
DOC:
MARS/PRISM:

Dear Mr Grimwade

**CPG Australia - third line forcing notification**

We act for CPG Australia Pty Limited ('CPG'). Please find enclosed, a notification of conduct constituting third line forcing, lodged under section 93(1) of the *Trade Practices Act 1974*, and a cheque for the lodgement fee of \$100.

CPG wishes to sell houses in association with land packages as detailed in the enclosed Form G.

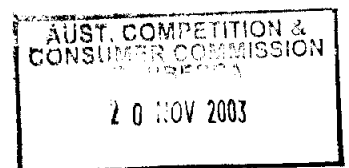
If you require any further information, please contact Sascha Callaghan on (02) 9921 4034.

Yours faithfully  
**MINTER ELLISON**



Ross Patterson  
Partner

Contact: Sascha Callaghan Direct phone: +61 2 9921 4034 Direct fax: +61 2 9921 8119  
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Our reference: 204140526



**MINTER ELLISON GROUP AND ASSOCIATED OFFICES**

SYDNEY MELBOURNE BRISBANE CANBERRA ADELAIDE PERTH GOLD COAST  
HONG KONG SHANGHAI BANGKOK JAKARTA SAN FRANCISCO LONDON  
AUCKLAND WELLINGTON

**Form G**

**Commonwealth of Australia**

***Trade Practices Act 1974 - Sub-section 93(1)***

**EXCLUSIVE DEALING:**

**NOTIFICATION**

To the Australian Competition and Consumer Commission:

Notice is hereby given in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(2), (3), (4), (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 engaged or proposes to engage.

**1. (a) Name of person giving notice:**

CPG Australia Pty Limited ABN 92 002 937 206 and its subsidiary companies listed in Schedule 1 (CPG).

**(b) Short description of business carried on by that person:**

CPG and its subsidiaries are engaged in designing and building houses for residential purposes.

**(c) Address in Australia for service of documents on that person:**

Kevin Whitehead, Director, CPG Australia Pty Ltd, Norwest Quay, Unit 2, Ground Floor, 21 Solent Circuit, Baulkham Hills, New South Wales, 2153.

**2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

This notice relates to the sale of houses by CPG in association with land packages, in respect of a parcel of land to be subdivided at Moorebank, New South Wales.

**(b) Description of the conduct or proposed conduct:**

CPG proposes to offer houses to the public as part of a house and land package. The customer will acquire building services from CPG on condition that the customer acquire the land upon which the building services are to be performed directly from a specified third party vendor (**Vendor**).

**(a) Class or classes of persons to which the conduct relates:**

The conduct relates to actual and potential house and land purchasers, purchasing building services from CPG on land in the Moorebank subdivision.

**(c) Number of those persons:**

**(i) At the present time:**

Nil.

**(ii) Estimated within the next year:**

200.

- (c) **Where the number of persons stated in item 2(c)(i) is less than 50, their names and addresses:**

Not applicable.

3. **Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:**

Kevin Whitehead, Director, CPG Australia Pty Ltd, Norwest Quay, Unit 2, Ground Floor, 21 Solent Circuit, Baulkham Hills, New South Wales, 2153.

**DATED**

**SIGNED** on behalf of the applicant

A handwritten signature in black ink, appearing to read 'Kevin Whitehead', is written over a horizontal line.

Kevin Whitehead  
Director

**SUBMISSION BY CPG  
IN SUPPORT OF A NOTIFICATION UNDER SECTION 93(1)  
OF THE TRADE PRACTICES ACT 1974**

**1. Background**

- 1.1 The companies listed in Schedule 1 are subsidiaries of CPG Australia Pty Ltd.
- 1.2 CPG wish to sell houses to be erected on a proposed land subdivision at Moorebank, New South Wales owned by a third party vendor (**Vendor**).
- 1.3 Purchasers will be required to enter into two separate contracts: a building agreement with CPG and a contract for the sale of land with Vendor. The sale of the building services under the building agreement will be conditional upon the purchaser entering into an agreement for the purchase of land with Vendor.
- 1.4 The Moorebank subdivision is expected to comprise approximately 1,000 lots, to be developed over a period of 5 years.

**2. Market**

- 2.1 The market to which the proposed conduct relates in the residential real estate market in the Western Sydney region.

**3. Analysis of the Conduct**

- 3.1 The conduct described in **Form G** is exclusive dealing within sections 47(6) and 47(7) of the *Trade Practices Act 1974* (Cth). CPG submits that there is no likely detriment to the public resulting from that conduct.
- 3.2 The proposed conduct does not have the effect of substantially lessening competition in the relevant market in that:
  - (a) the proposed Moorebank subdivision of 1,000 lots represents a small proportion of residential real estate available for development in the Western Sydney area;
  - (b) The Department of Infrastructure Planning and Natural Resources 2002 Metropolitan Development Program estimates 33,500 residential lots will be released in the Western Sydney region over the next five years - see table 5, 2002 Housing Forecast at [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au). The Moorebank subdivision represents less than 3% of the total available land.
- 3.3 The proposed conduct offers significant benefits to purchasers in that:
  - (a) as CPG does not need to apply its resources in purchasing 1,000 lots, it can undertake a far larger project than would otherwise be the case, resulting in superior quality control in overall project imaging and better design co-ordination of individual houses on adjoining lots under a single Master Plan;
  - (b) purchasers will have better information and certainty about the entire development as it will be totally under CPG's control;

- (c) purchasers will not have to bear the cost of 'double' stamp duty as there is a single transfer of land from Vendor to the purchaser, avoiding an intermediate transfer to the CPG. If an intermediate transfer took place the resulting stamp duty would be passed on to the ultimate purchaser;
- (d) as the transfer of title is effected prior to the commencement of the building services, stamp duty is payable only on the land value;
- (e) as a consequence the entire development will be a superior quality Master Plan community, and new house and land packages will be available to purchasers at more affordable prices.

#### **4. Conclusion**

- 4.1 For the reasons stated above, CPG submits that the proposed conduct provides benefits to the public and will have no anti-competitive effect and therefore no public detriment.

**SCHEDULE 1**

1. **Domaine Homes (NSW) Pty Limited**  
ABN 19 080 788 969
2. **Clarendon Homes (NSW) Pty Limited**  
ABN 18 003 892 706
3. **Bellevale Homes Pty Limited**  
ABN 71 057 547 350