

# RUSSELL KENNEDY

MEMBER OF THE KENNEDY STRANG LEGAL GROUP

Your Ref  
Our Ref RDH 122244/584

**Contact**  
Rohan Harris  
Tel 61 3 9609 1522  
Fax 61 3 9609 6832  
rharris@rk.com.au

19 December 2003

Australian Competition & Consumer Commission  
GPO Box 520J  
MELBOURNE 3001



Dear Sir

## Henley Investments Projects Pty Ltd - Exclusive Dealing Notification

We act for Henley Investments Projects Pty Ltd in relation to this matter.

We enclose the following:

- 1 Form G - Exclusive Dealing Notification in accordance with Sub-section 93(1) of the *Trade Practices Act 1974*;
- 2 cheque for \$100 payable to the Australian Competition & Consumer Commission on account of the Exclusive Dealing Notification lodging fee.

Please confirm receipt of the above as soon as possible.

If you have any queries please let us know.

Yours faithfully  
**RUSSELL KENNEDY**

Rohan Harris  
Senior Associate

FILE No:
DOC: D03/47669
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## 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 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 proposes to engage.

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

Henley Investment Projects Pty Ltd ACN 082 070 326 ("HIP").

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

HIP is a member of the Henley Properties Group which sells house and land packages for residential purposes.

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

C/- Russell Kennedy, Solicitors,  
Level 11  
469 LaTrobe Street  
Melbourne  
Victoria 3000

Fax no. 9609 1600

Our reference : RDH 122244/00584

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

HIP is a member of the Henley Properties Group which offers house and land packages for sale in metropolitan Melbourne, Adelaide, Sydney, Brisbane and the Gold Coast. This notification relates to proposed offers by HIP to sell vacant land to customers, for the purpose of proposed offers to sell house and land packages by the Henley Properties Group.

HIP's proposed offers to sell vacant land for this purpose will be made in conjunction with the supply of building services by Northridge Homes Pty Ltd ACN 085 215 774 ("**Northridge**") to customers. Northridge is a registered builder (HIA member number 812 113 - registered building practitioner Robert Bowen registration number DB-U1999).

Northridge and HIP have the same directors. Northridge is a wholly owned subsidiary of HIP. Northridge is also a member of the Henley Properties Group.

**(b) Description of proposed conduct**

HIP proposes to offer house and land packages to customers in Victoria at prices that are generally lower than in circumstances where a prospective customer seeks to make independent arrangements for the purchase of an equivalent block of vacant land and the engagement of a builder to construct equivalent improvements.

HIP's offers will be available in circumstances where the purchaser of the land also agrees to enter into a separate contract for building services for the construction of the residential improvements on the land with Northridge.

The house and land packages will involve customers entering into the following agreements:

- a contract note with HIP for the sale and purchase of land upon which the residential improvements will be constructed, which is expressed to be conditional upon the purchaser entering into a separate building contract for the construction of residential improvements on the land with Northridge ("**Land Contract**"); and
- a building contract for the construction of the residential improvements on the land with Northridge, pursuant to the condition in the Land Contract with HIP ("**Building Contract**").

Copies of the standard Land Contract and Building Contract to be used for these arrangements are attached to this notice in Annexure A and Annexure B respectively.

Particular allotments within the residential development known as Bridgewater Estate, Stages 5, 6 and 7 Cuthbert Avenue, Truganina located at the property known as Lot 2, PS 321594B, Sayers Road, Truganina have been selected by HIP as being suitable for these house and land packages. The Henley Properties Group is yet to publish sales and marketing material in relation to the proposed sales. However, it is estimated that house and land packages will be sold for prices in the range of \$245,000 to \$313,000.

HIP may offer house and land packages to purchasers under similar arrangements with Northridge and other members of the Henley Properties Group in relation to other stages of Bridgewater Estate and other residential developments from time to time. The specific nature and price of these house and land packages will vary between locations and developments.

There is a possibility, which is not admitted by HIP, that the proposed conduct contravenes or will contravene sections 47(6) and 47(7) of the *Trade Practices Act 1974* ("**Act**").

**Reasons why the benefit to the public from the proposed conduct will outweigh any detriment to the public from the proposed conduct**

The proposed conduct by HIP will benefit the public because it will enable HIP to offer house and land packages for sale at prices that HIP considers to be lower than where a purchaser makes independent arrangements for the purchase of an equivalent block of vacant land and the engagement of a builder to perform equivalent building services. More affordable house and land packages are obviously of very high significance to consumers.

HIP prices its house and land packages based on estimates of site preparation and construction costs. The pricing structure reflects averaging of costs across other house and land packages offered by the Henley Properties Group. The pricing structure includes an allowance for unforeseen costs in relation to any one site at which house and land packages are offered.

The house and land packages offered by HIP will be low margin and high volume. The offering of house and land packages by HIP in conjunction with Northridge permits HIP to price its house and land packages at more competitive levels. The following costs and time savings arise as a result of HIP offering house and land packages in conjunction with Northridge:

- HIP, in conjunction with Northridge, selects and acquires land which it knows will be suitable for the purpose of offering house and land packages. Land will not be selected for this purpose if HIP considers that the construction of residential improvements on the land would necessitate extensive soil and/or engineering testing. The cost of these tests, in terms of both money and time, is therefore avoided.
- HIP, in conjunction with Northridge, is also able to select and acquire land which it knows will be suitable for particular house designs. There is no need to change the design to suit a particular block of land. Rather, the block of land is matched with a particular design and sold as a package. The cost of modifying a particular design to suit a particular block of land, in terms of both time and money, is therefore avoided.
- HIP is able to offer house and land packages on the basis that it knows that Northridge and its sub-contractors will be available to perform the construction works. The fact that Northridge and its sub-contractors typically work on a number of houses in close proximity within the same development also reduces their time and travel costs.
- HIP will engage a single selling agent to sell its house and land packages on its behalf. The selling agent will be paid a commission based on the value of the housing component alone. Because HIP will not engage a separate external selling agent to sell the land component, there will be no separate commission payable in respect of the land component. In addition, there will also be no separate marketing and advertising costs payable in respect of the land component.
- Given that HIP and Northridge are both members of the Henley Properties Group, the combined resources of the Henley Properties Group are applied to administer the affairs of both companies, including the offering of house and land packages. This arrangement is more efficient and less costly than would be the case if the land and building services were offered separately by unrelated parties with separate administrative costs.

These time and cost savings are largely passed on to consumers to enable HIP to offer house and land packages for sale at a price that HIP considers to be lower than where a purchaser chooses to make independent arrangements for the purchase of an equivalent block of vacant land and engagement of a builder to construct equivalent improvements.

These time and cost savings will be reflected in lower prices for house and land packages offered by HIP, when compared to prices for house and land packages

offered by other developers. For example, HIP will offer house and land packages for sale for prices in the range of \$245,000 to \$313,000. HIP's market research of prices for equivalent house and land packages offered by other major developers in adjoining areas indicate that prices range between \$265,000 and \$343,000.

HIP's association with Northridge means that it will also be able to offer a large selection of house designs and extensive range of facades, and client specific variations and colour schemes for its house and land packages.

The arrangements will not result in public detriment. There are a number of other large and vigorous competitors for the supply of house and land packages, and the supply of vacant land and residential building services, in metropolitan Melbourne.

In addition, as noted above, HIP and Northridge have the same directors and Northridge is a wholly owned subsidiary of HIP. In these circumstances, the offering of house and land packages by HIP on the condition that the purchaser engages Northridge to construct the improvements is, in practical terms, no different than would be the case if HIP sold the land and constructed the improvements itself. This conduct would also not give rise to a breach of the Act.

### **3 (a) Class or classes of persons to which the proposed conduct will relate**

- HIP and other persons in the business of selling vacant land upon which improvements are to be constructed for residential purpose, or house and land packages.
- Northridge and other persons in the business of providing building services for the construction of residential premises, including in conjunction with offers of house and land packages.
- Customers seeking to purchase vacant land for residential purposes, and engage builders to construct residential premises, including house and land packages.

### **(b) Number of those persons**

#### **(i) At present time**

The current number of builders with whom HIP proposes to offer house and land packages is 1 - namely, Northridge. This figure may vary from time to time depending on builder availability and suitability.

HIP estimates that the current number of customers who seek residential house and land packages is approximately 18,284 per year in metropolitan Melbourne. This figure is based on independent market research obtained by HIP of the total number of building permits issued for the construction of new residential improvements in the Melbourne metropolitan area in the period October 2002 to September 2003.

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

HIP's offers of house and land packages will be available to all customers seeking to purchase house and land packages within the municipal boundaries of the Wyndham City Council in metropolitan Melbourne, particularly in the residential development known as Bridgewater Estate, Truganina. HIP estimates that it will sell approximately 130 house and land packages under the proposed arrangements in that development within the next 12 months.

(c) Where number of persons stated in item 3 (b)(i) is less than 50, their names and addresses

Not applicable.

4 Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice

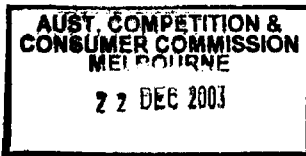
Rohan Harris  
Russell Kennedy, Solicitors  
Level 11  
469 LaTrobe Street  
Melbourne, 3000

Phone (03) 9609 1555  
Fax (03) 9609 1600

Dated 19/12/2003

Signed by/on behalf of the applicant giving notice

  
(Signature)



**ROHAN DAVID HARRIS**  
469 La Trobe Street, Melbourne (Full Name)  
A natural person who is a current  
practitioner within the meaning of the  
Legal Practice Act 1996. (Description)

**ANNEXURE A**  
**Sample Land Contract**

## CONTRACT NOTE

**ESTATE AGENT** Henley Properties Marketing (Vic)

Tel: 9574 5333 Fax: 9574 5300 Attention: H Batterham for

**VENDOR** Henley Investment Projects Pty Ltd A.C.N. 082 070 326  
24 Gardiner Road  
Notting Hill 3168 Phone: 9574 5333

has obtained from

**PURCHASER**  
**BOTH OF**

this offer to purchase

**PROPERTY** Lot Truganina Vic. 3029

**CHATTELS:** Vacant Land as per attached.

**PRICE** \$ payable by a

**DEPOSIT** \$ by ...../...../..... (of which \$500.00 has been paid) and

**BALANCE** \$

**PAYMENT OF BALANCE** 45 days after entering into a Building Contract with Northridge Homes Pty Ltd  
Or, if the property is a lot on an unregistered plan, 14 days from the date the vendors solicitor informs the purchasers solicitor or representative that the plan of Subdivision has been approved by the Registrar of Titles, whichever is later.

### SUBJECT TO

1. Covenants as per the attached Section 32 Certificate.
2. The vendor providing the purchaser with vacant possession upon acceptance of title and payment of the price.
3. The general conditions of sale, other than GC3, contained in the Contract of Sale of Real Estate, prescribed by the *Estate Agents (Contracts) Regulations 1997*.
4. Any special conditions on the back of, or attached to, this contract note.

### IMPORTANT NOTICE TO PURCHASERS

#### Cooling-off period

#### Section 31 Sale of Land Act 1962

If none of the exceptions listed below applies to you, you may end this contract within 3 clear business days of the day you sign the contract. To end this contract within this time, you must either give the vendor or the vendor's agent written notice that you are ending the contract or leave the notice at the address of the vendor or the vendor's agent.

If you end the contract in this way, you are entitled to a refund of all the money you paid EXCEPT for \$100 or 0.2% of the purchase price (whichever is more).

**EXCEPTIONS** – The 3 day cooling off period does not apply if –

- The price of the property (including chattels) exceeds \$250,000
- You bought the property at or within 3 clear business days before or after a publicly advertised auction.
- You receive independent advice from a solicitor before signing the contract.
- The property is used mainly for commercial or industrial purposes.
- The property is more than 20 hectares in size and is used mainly for farming.
- You previously signed a similar contract for the same property.
- You are an estate agent or a corporate body.



**CONTRACT NOTE**

**THE VENDOR'S STATEMENT**

Required by section 32(1) of the *Sale of Land Act 1962* is attached to and included in this contract note. Easements and covenants affecting the property are disclosed in the Vendor's Statement.

The purchaser will execute any further contract required by the vendor to set out all the conditions of this sale.

This offer is made by the purchaser on \_\_\_/\_\_\_/\_\_\_ and will lapse at midnight on \_\_\_/\_\_\_/\_\_\_.

*Signature(s) of the purchaser* \_\_\_\_\_

**BY SIGNING THIS DOCUMENT YOU WILL BE LEGALLY BOUND BY IT**

This offer is accepted by the vendor on \_\_\_/\_\_\_/\_\_\_.

*Signature(s) of the vendor* \_\_\_\_\_

**HENLEY INVESTMENT PROJECTS PTY LTD**

The parties acknowledge being given a copy of the contract note by the agent at the time of signature.

**VENDOR'S SOLICITOR**

Russell Kennedy  
Contact: Gill Ward  
Level 11, 469 Latrobe Street  
MELBOURNE 3000  
Ph: 9609 1555  
Fax: 9609 1600

**PURCHASER'S SOLICITOR**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Contact: \_\_\_\_\_  
Ph: \_\_\_\_\_  
Fax: \_\_\_\_\_

**SPECIAL CONDITIONS AS PER ATTACHED.**

## SPECIAL CONDITIONS

**1. Admission of Identity of Land**

The purchaser admits that the land as offered for sale and inspected by the purchaser is identical with that described in the title particulars given above. The purchaser shall not make any requisition or claim any compensation for any alleged misleading description of the land or deficiency in its area or measurements or call upon the vendor to amend title or to bear all or any part of the cost of doing so. Condition 3 of Table A Seventh Schedule Transfer of Land Act 1958 shall not apply to this Contract.

**2. Restriction As To Use**

The property is sold subject to any restriction as to use under any order, plan, scheme, regulation or by-law made by any authority empowered by any legislation to control the use of the land. No such restriction constitutes a defect in the vendor's title or affects the validity of this contract. The purchaser must not make any requisition or objection and is not entitled to any compensation from the vendor in respect of any such restriction.

**3. Acknowledgement**

The purchaser admits and acknowledges that a statement in writing in accordance with the requirements of Section 32 of the Sale of Land Act 1962 in relation to the property was handed to the purchaser by the agent for the vendor before the purchaser signed this contract.

**4. Signatory**

Any signatory for a corporate or other purchaser shall be personally liable for the due performance of the purchaser's obligations as if the signatory was the purchaser.

**5. Guarantee & Indemnity**

If the purchaser shall be or include a company, other than a company listed on a recognised Stock Exchange within Australia, the purchaser shall forthwith procure the signature by each of that company's directors of a guarantee and indemnity in the form annexed hereto by them of the performance of its obligations hereunder by that company.

**6. Interest Rate**

Condition 4 of Table A Seventh Schedule Transfer of Land Act 1958 shall not apply to this contract and if the purchaser defaults in payment of any money under this contract then interest at the rate of 20% p.a. and computed upon the money overdue during the period of default shall be paid without any demand made by the vendor and without prejudice to any other rights of the vendor.

**7. Entire Agreement And No Representations**

This contract sets out all the terms of this sale. Any promise, condition, representation or warranty that may have been made by the vendor or by any person on behalf of the vendor and which is not set out in this contract is negative and withdrawn. In particular, the purchaser confirms and acknowledges that:

- there is no other contract, agreement or collateral warranty subsisting at the time of signing this contract;
- the vendor has made no representations or warranties as to the fitness and suitability of the property and the chattels for any particular purpose;
- the vendor has made no representations or warranties as to the financial return or income to be derived from the property and the chattels;
- the vendor has made no representations or warranties as to the amount of duty payable by the purchaser on the transfer; and
- in entering into this contract, the purchaser is relying entirely upon its own enquiries.

This special condition operates for the benefit of the vendor and the vendor's estate agent and their respective employees, agents and contractors.

**8. Default**

If the purchaser defaults in payment of part or whole of the purchase money then the purchaser shall pay on demand:

- a) All costs, charges and expenses incurred by the vendor as a result of the breach; and
- b) Interest under this contract in addition to all monies due.

**9. Filled Land**

The purchaser covenants and agrees with the vendor that the purchaser will not be entitled to nor will the purchaser claim any compensation or damages from the vendor in any way arising out of or relating to any filling which may be on the land sold.

**10. Subject to Finance**

This contract is subject to \_\_\_\_\_ (the "lender") approving a loan of not less than \$ \_\_\_\_\_ (the "loan") for a house and land package on the security of the property by the \_\_\_\_\_ (the "approval date") or any later approval allowed by the vendor. The purchaser may end the contract if the loan is not approved by the approval date only if the purchaser:

- Has made immediate application for the loan;
- Has done everything reasonably required to obtain approval of the loan;
- Serves written notice ending the contract on the vendor on or before one business day after the approval date; and
- is not in default under any other condition of this contract when the notice is given.

All money must be immediately refunded to the purchaser if the contract is ended.

**11. Building Contract**

- (a) This contract is conditional upon the purchaser entering into a building agreement with Northridge Homes Pty Ltd. A.B.N 75 085 215 774 within 30 days after the day of sale. If this condition is not satisfied within 30 days after the day of sale, the vendor may at any time after that period but before the condition is satisfied, avoid this contract by notice in writing to the purchaser.
- (b) This contract is conditional upon the purchaser complying with all of the terms of the building agreement to be entered into by the purchaser and Northridge Homes Pty Ltd. If the purchaser is in substantial breach of the building agreement (as defined in the building agreement), including the requirement that the purchaser must provide the builder with essential information (as set out in the building agreement) the vendor may at any time during the period of the breach and before settlement, avoid this contract by notice in writing to the purchaser.
- (c) If this contract is avoided pursuant to this special condition, the deposit and all other moneys paid by the purchaser under this contract (less any applicable taxes duties and bank fees incurred with respect to the money paid) must be refunded in full to the purchaser. However, the purchaser is not entitled to any compensation from the vendor in respect to any loss, damage, costs, fees or other expended paid or incurred by the purchaser in relation to or arising out of this contract.

**12. GST**

"GST" means the same as in the GST Law, and any applicable additional tax, penalty tax fine, interest or other charge.

"GST Law" means the same as "GST law" means in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**12.1 Price**

The price is inclusive of GST.

**12.2 Reimbursements**

A party's obligation to reimburse another party for an amount paid or payable to a third party (e.g. a party's obligation to pay another party's legal costs) includes GST on the amount paid or payable to the third party except to the extent that the party being reimbursed is entitled to claim an input tax credit for that GST.

**12.3 Indemnities**

If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.

If a party has an indemnity for a cost on which that party must pay GST, the indemnity is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).

A party may recover a payment under an indemnity before it makes the payment in respect of which the indemnity is given.

**13. Requisitions**

- (a) General conditions 1 and 2 of Table A of the Seventh Schedule of the *Transfer of Land Act 1958* shall not apply to this contract. The purchaser shall instead be deemed to have served on the day of sale requisitions on title in the same form as the requisitions published by the Law Institute of Victoria and current as of the Day of sale.
- (b) The purchaser shall not raise any other requisitions, enquires or objections in regard to the Vendor's title or concerning any matter appearing in the particulars of sale or special conditions.

**14. Adjustments**

Unless and until a separate assessment of rates, taxes and charges is issued in respect of the property, all adjustments between the parties shall be made on the basis that the property is liable to that proportion of any such rates taxes or outgoings levied or assessed against all the land in the relevant rating or other assessment which the area of the property bears to the total area of all land contained in that rating or other assessment.

If a supplementary assessment of any rates, taxes, charges or other outgoings is levied or charged in respect of the property after the settlement date, no adjustment will be made and the purchaser is solely responsible for the payment of any such supplementary assessment, levy or charge.

**15. Land tax**

Notwithstanding condition 9 of Table A, no monies shall be withheld from the vendor from the price payable under this contract on account of any state land tax which may be or which may, after the date of this contract, become a charge on the land. The vendor acknowledges that it may be liable for payment of any state land tax chargeable upon the land to the date on which the purchaser becomes entitled to possession of the property and shall indemnify and keep the purchaser indemnified in respect of any such state land tax charged upon the property to that date. This indemnity shall be a continuing indemnity and shall not merge upon a transfer of the property.

**16. Transfer**

If the purchaser fails to provide the instrument of transfer within the time limit specified in general condition 13.1, then, without prejudice to the vendor's other rights: the vendor may complete this contract at any time within 10 days after the instrument of transfer is received by the vendor.

If the contract is completed after the date for payment of the balance in accordance with this special condition, the purchaser is deemed to have made default in payment of the balance on the date for payment of the balance and the purchaser must pay interest in accordance with this contract from the date for payment of the balance until the contract is completed.

**17. Notices**

In this special condition, "conveyancer" means any person who is acting, or purporting to act for the purchaser or to represent the purchaser in relation to the transfer of the property from the vendor to the purchaser and includes the meaning of that term in the *Legal Practice Act 1996*.

Service of any notice or document under or relating to this contract may be made or given by a party's legal practitioner or conveyancer and shall be sufficiently served on or delivered to a party to this contract if delivered or sent by pre-paid post or facsimile to that party's legal practitioner or conveyancer at their respective addresses set out in this contract or as subsequently notified to the party serving such notice or document.

All such notices or documents will be deemed to have been duly given or sent:

- if delivered, upon delivery;
- if sent by pre-paid letter, upon the second business day after the date on which it was posted; and
- if sent by facsimile, and the sending party's transmission confirmation report is retained, upon transmission unless:
  - the sending party's transmission confirmation report does not contain the recipient's facsimile number;
  - the sending party's transmission confirmation report indicates transmission failed, was incomplete or corrupted; or
  - the recipient immediately notifies the vendor of any incomplete or corrupted transmission.

**ANNEXURE B**

**Sample Building Contract**



PLAIN ENGLISH

# New Homes Building Contract

FEBRUARY 2003 EDITION

OWNER/S .....
.....
.....
JOB LOCATION .....
.....

**HOUSING  
INDUSTRY  
ASSOCIATION  
LIMITED**

ABN 99 004 631 752

© Copyright

*Written in accordance with the  
Domestic Building Contracts Act 1995*

Endorsed by:



This contract has been developed in conjunction with HIA  
and is available for use only by Northridge Homes.

ACN 085 215 774

**NOTICE APPROVED BY THE DIRECTOR OF  
FAIR TRADING AND BUSINESS AFFAIRS  
PURSUANT TO SECTION 31 (n)  
OF THE DOMESTIC BUILDING CONTRACTS ACT 1995**

## **COOLING OFF PERIOD**

NOTICE TO BUILDING OWNER: YOU MAY END THIS CONTRACT WITHIN FIVE CLEAR BUSINESS DAYS AFTER RECEIPT BY YOU OF A SIGNED COPY OF THE CONTRACT BY FILLING IN THE NOTICE BELOW AND GIVING IT TO THE BUILDER IN ONE OF THE FOLLOWING WAYS:

- (1.) PERSONALLY;
- (2.) LEAVING IT AT HIS OR HER ADDRESS SET OUT IN THE CONTRACT WITH A PERSON WHO APPEARS TO BE AT LEAST 16 YEARS OLD;
- (3.) SENDING IT BY PRE-PAID REGISTERED POST TO THE ADDRESS SET OUT IN THIS CONTRACT;
- (4.) SENDING IT BY FACSIMILE TO THE FACSIMILE NUMBER (IF ANY) SET OUT IN THIS CONTRACT.



.....  
DETACH ALONG DOTTED LINE

## **NOTICE THAT CONTRACT IS ENDED**

A Building Owner cannot withdraw from a contract under the Act if:

1. The Builder and the Building Owner have previously entered into a major domestic building contract that is in substantially the same terms for the carrying out of the work in relation to the same home or land; OR
2. The Building Owner received independent legal advice from a practicing solicitor concerning the contract before entering into the contract.

To ..... (Builder)

I/We ..... give notice under our contract with you that the Contract is ended. Please refund the deposit less \$100 and any out of pocket expenses incurred by you which I have previously approved.

Building Owner's signature.....

Date:            /            /20



**NOTICE APPROVED BY THE DIRECTOR OF  
FAIR TRADING AND BUSINESS AFFAIRS  
PURSUANT TO SECTION 31 (r)  
OF THE DOMESTIC BUILDING CONTRACTS ACT 1995**

**CHECKLIST**

**BEFORE SIGNING THIS LEGALLY BINDING CONTRACT  
CHECK THIS LIST**

- Has an Insurance policy or certificate of currency for builder's Insurance been Issued and provided to you? If not, the Contract is conditional upon you receiving either an insurance policy or a certificate of currency for builder's insurance. **YES or NO**
- If this Contract is conditional upon the Building Owner receiving written approval for finance has the Building Owner obtained such approval? **YES or NO**

**If you answer 'no' to any of the following questions you are not ready to sign the Contract:**

- Has the Building Owner had this Contract long enough to read and understand it? **YES or NO**
- Has the Building Owner been provided with evidence that the Builder named in this Contract is registered with the Building Practitioners Board? **YES or NO**
- Are the price and progress payments clearly stated? **YES or NO**
- Does the Building Owner understand how the price is calculated and may be varied? **YES or NO**
- Has the Builder assessed the suitability of the site for the proposed works and if tests are necessary have they been carried out before signing the Contract. **YES or NO**
- If a Deposit is payable, is it within the legal limit?  
The maximum under the Domestic Building Contracts Act is:
  - (i) 10% if the Price is less than \$20,000 or;
  - (ii) 5% if the Price is \$20,000 or more.**YES or NO**
- Is the work shown and described clearly in the Contract, plans or specifications and any other relevant documents such as engineering computations or soil report? **YES or NO**
- Are the Building Owner's special requirements or finishes included in the plans or specifications? **YES or NO**
- Are the commencement date and completion date clearly stated or capable of being ascertained? **YES or NO**
- Is the procedure for extensions of time understood? **YES or NO**
- Are any 'provisional sums' or 'prime cost items' clearly stated in the schedules and understood? **YES or NO**
- Is the procedure for variations of plans or specifications understood? **YES or NO**
- Do you understand the circumstances in which you can end the Contract? **YES or NO**

**NOTE:** This checklist does not form part of the Contract.

Read, signed and dated by the Building Owner.....

Date:        /        /20

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# PARTICULARS OF CONTRACT

## THIS CONTRACT IS BETWEEN:

### NOTE

If the Owner is a company, a Directors' Guarantee must be signed before this Contract is signed. See Attachment 2.

### OWNER/S

of

State

Postcode

ACN

Telephone

Fax

### BUILDER NORTHBRIDGE HOMES PTY LTD

ACN 085 215 774 HIA Membership No 812113

of

Postcode

Telephone

Fax

Registered Building Practitioner

Robert Bowen

Reg. No. DB-U1999

## THE BUILDING WORKS

### NOTE

These documents must be signed and dated with the Contract.

### BRICK VENEER DWELLING

(Brief description) as set out in the Specifications and Plans.

The **SPECIFICATIONS** include 5 pages that were prepared and supplied by the **BUILDER**.

There are ..... sheets of **PLANS** and they were prepared AND supplied by the **Builder**.

There are ..... sheets in the **ENGINEER'S DESIGN/S**, AND it/they, was/were, prepared by .....

for the **BUILDER**.

## LENDING DETAILS

The **LENDING BODY** is

of

**WARRANTY/  
PROFESSIONAL  
INDEMNITY INSURER**

INSURER: Home Owners Warranty  
Of 70 Jolimont Road, Jolimont 3002  
Telephone 9650 8333  
Facsimile 9650 9533  
Name of Insured .....

Except for the **Builder's** interest in this Contract and the legal requirement for it to be arranged in respect of the **Building Works**, the **Builder** receives no benefits in relation to arranging such insurance.

**THE LAND**

Lot No ..... Street No. ....  
.....  
The TITLE PARTICULARS are:  
Volume No. .... Folio No. ....  
Plan of Subdivision No. ....  
Covenants, Restrictions and/or Easements on the Land  
Refer Section 32 – Land Contract  
.....

**SIGNED OWNER/S**

**NOTES** Only sign this Contract when: • All the Contract Documents required including Specifications and Plans are attached and signed; • All the details in the Schedules have been filled in.

**SIGNED OWNER/S:** .....  
.....  
(If more than one owner, all must sign)  
**SIGNED WITNESS:** .....  
Name .....  
Address .....

**SIGNED BUILDER**

**NOTE**  
The Builder must give the Owner a readily legible signed copy of this Contract within 5 clear Days after it is signed.

**SIGNED BY OR ON BEHALF OF THE BUILDER:**  
.....  
.....  
**SIGNED WITNESS:** .....  
Name .....  
Address .....

**CONTRACT DATE**

**NOTE**  
Insert date when Contract is signed by both parties.

**DATE OF CONTRACT**  
..... / ..... /20.....

**Do not sign if a photocopy - it is a breach of HIA's copyright and may make you liable to pay damages**

# SCHEDULE 1.

**1. Time for completion  
- building period**  
(Clause 11)

**NOTE**

Building Works to be carried out by the Owner or the Owner's agent are as listed in Schedule 5.

..... **Days** including the following estimates for delays:

- Inclement weather and the effects of inclement weather  
..... days
- Weekends, public holidays, rostered days off and other foreseeable breaks in the continuity of the work  
..... days
- Other days that are reasonable having regard to the nature of the **Building Work** ..... days

The **Builder** has excluded from the **Contract Price** amounts payable to third parties in relation to the **Building Works**. The work or things listed below are not included in the **Contract Price** and the Builder's reasonable estimate of the amount payable in respect to them are listed as follows:-

Item	Estimate
1 Conveying connection or installation of	
(a) Gas	\$ .....
(b) Electricity	\$ .....
(c) Telephone to one point	\$ .....
(d) Water	\$ .....
(e) Sewerage	\$ .....
2 Issue of Planning Permit	\$ .....
3 Issue of Building Permit	\$ .....
4 Other	
(a) .....	\$ .....
(b) .....	\$ .....

**2. Contract Price**  
(Clause 12)

(in words) .....

.....

(in figures) \$ .....

The Contract Price is GST inclusive.

The price of this Contract is not fixed, and may be altered as a result of:

- interest on overdue payments (Refer to Clause 29)
- the actual cost of Prime Cost Items and work for which Provisional Sums have been specified exceeding the estimates set out in the Contract (Refer to Clause 31)

**Ensure that you fully understand how the clauses dealing with these matters affect the Contract Price**

**WARNING TO OWNER AS TO PRIME COST ITEMS**

It is always better to get a fixed price for all work. However, some fixtures and fittings may need to be selected after the Contract is signed e.g. a stove, type of taps etc. If these items are specified as Prime Cost Items the Builder will allow an amount in the Contract Price which should cover the expected cost of the item.

**NOTE:** If the actual cost is more than the amount allowed you will have to pay the extra amount. You may also have to pay the Builder's margin in the extra amount. If this is intended, the margin should be specified, or cannot be claimed unless the Owner agrees in writing to such additional amount. If the Prime Cost is less than that allowed for in the Contract, the difference should be deducted from the Contract Price.

**3. Deposit (Clause 9)**

\$ ..... (3% of Contract Price)

**4. Person responsible for obtaining and paying for planning approval and number of days to obtain planning approval (Clause 17)**

The **Owner** within ..... days of the date of this Contract

**5. Person responsible for obtaining and paying for the Building permit and number of days to obtain Building Permit (Clause 17)**

The **Builder** within ..... days  
of the date of this Contract

**6. Percentage if Contract is ended (Clauses 17.2, 19.4)**

20%.

**7. Number of Days to make Progress Payments after stage completed and notice received (Clause 28)**

14 days

**8. Agreed interest for late Progress Payments**  
(Clause 29)

13.9% per annum

**9. Agreed damages for late completion of the Building Works**  
(Clause 38)

\$250 per week

**10. Percentage applicable to extra work**  
(Clauses 15.2, 19.2)

20%

**11 Lending Body Finance**  
(Clause 8.0)

Finance \$..... with approval to be within 30 days from the date of this Contract

**12. Agreed damages for delays**  
(Clause 32.1)

\$250 per week



# SCHEDULE 2.

## PRIME COST AND PROVISIONAL SUM ITEMS AND ALLOWANCES

Refer to procedures in Clauses 12 and 31.

The parties agree that the following allowances are included in the **Contract Price**. The allowances included in the **Contract Price** by the **Builder** for **Prime Cost Items** and **Provisional Sums** must be a reasonable estimate of the price for the supply of the item and/or the work to be performed, in accordance with Sections 20, 21 and 22 of the Domestic Building Contracts Act 1995.

PRIME COST ITEMS FITTINGS, FIXTURES, MATERIALS ONLY				
DETAILED DESCRIPTION OF THE ITEM	QUANTITY ALLOWED FOR	RATE	ALLOWANCE \$	MARGIN ON EXCESS (if nothing stated 20%)
PROVISIONAL SUM ITEMS LABOUR AND MATERIALS				
DETAILED DESCRIPTION OF THE WORK	QUANTITY ALLOWED FOR	RATE	ALLOWANCE \$	MARGIN ON EXCESS (if nothing stated 20%)