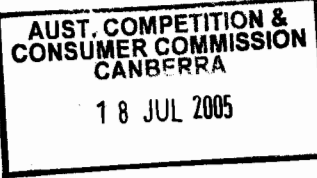


# LYNCH MEYER

MEMBER OF THE KENNEDY STRANG LEGAL GROUP



Ref: SMA:555383  
Direct Line: 8236 7681  
Fax: 8223 4348  
sappleyard@lynchmeyer.com.au

14 July 2005

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

FILE No:
DOC <u>D05/</u>
MARS/PRISM

Attention: Mr Gregson

Dear Mr Gregson,

## Exclusive Dealing - Notification - Mawson Lakes Joint Venture

We act on behalf of the Mawson Lakes Joint Venture through its Project Manager Delfin Management Services Pty Ltd.

The Joint Venture is an unincorporated Joint Venture involving Land Management Corporation, Delfin Mawson Lakes Pty Ltd, and Lend Lease Development Pty Ltd. *N91885* *N91886*  
*N91887*

We enclose<sup>1</sup> for your consideration:

1. An application Form G executed on behalf of the Joint Venture applicants by the Project Manager, together with explanatory material set out as an Annexure A to the Form G; and
2. Our client's cheque in the sum of \$2,100.00 payable to the Australian Competition and Consumer Commission representing the application fee for the Applicant entities.

It is our submission that the Annexure A material supports the view that, to the extent there is any detriment perceived, the likely benefit to the public from the proposed conduct will outweigh any likely detriment to the public from such conduct.

Should you require any further information kindly contact the writer as you require.

Yours faithfully

**Sam Appleyard**  
Partner  
Lynch Meyer

Enclosure

<sup>1</sup> As listed above

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N 91885  
N 91886  
N 91887

# 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:-**  
Land Management Corporation, Delfin Mawson Lakes Pty Ltd ACN 007 345 254 and Lend Lease Development Pty Ltd ACN 000 311 277.
- (b) **Short description of business carried on by that person:-**  
The development and marketing of residential land at Mawson Lakes South Australia.
- (c) **Address in Australia for service of documents on that person:-**  
C/- Delfin Management Services Pty Ltd  
PO Box 66  
SALISBURY SOUTH SA 5106
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:-**  
Contracts for the sale of Terrace Home allotments at Mawson Lakes Development, 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 Terrace Homes allotments at Mawson Lakes Development.
- (b) **Number of those persons:-**
  - (i) At present time – proposed 15 to 20 allotments
  - (ii) Estimated within the next year – proposed 50 – 60 allotments
- (c) **Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:-**  
N/A
4. **Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:-**  
Mr Christopher John Branford, Project Manager, Delfin Management Services Pty Ltd, PO Box 66 Salisbury South SA 5106

Dated the 12<sup>th</sup> day of July 2005

Signed by/on behalf of the persons giving this notice



Signature

**CHRISTOPHER BRANFORD**

Full Name

Delfin Management Services Pty Ltd

## ANNEXURE A

The Mawson Lakes development is an unincorporated Joint Venture involving Land Management Corporation ("LMC"), Delfin Mawson Lakes Pty Ltd and Lend Lease Development Pty Ltd. Delfin Management Services Pty Ltd ACN 000 228 820 ("DMS") is the Project Manager appointed by the Joint Venture to manage the development at Mawson Lakes. Delfin Mawson Lakes Pty Ltd, DMS and Lend Lease Development Pty Ltd are subsidiaries of the publicly listed entity Lend Lease Corporation and are experienced property developers.

LMC is a subsidiary of the Minister for Government Enterprises, established under the Public Corporations (Land Management Corporation) Regulations 1997.

### **Mawson Lakes Development**

Mawson Lakes is located approximately 12 kilometres north of the Adelaide CBD within the Salisbury Council area.

The commercial and residential development being undertaken by the Mawson Lakes Joint Venture comprises some 620 hectares and forms part of a large precinct which includes the Technology Park business/industrial development and The Levels Campus of the University of South Australia.

Mawson Lakes is planned to accommodate between 8,000 to 10,000 residents on completion, in a village environment offering a high quality lifestyle to suite a range of household types, the main features of which will include:-

1. Separate Villages offering different characters and lifestyles.
2. 189 hectares of waterways and open-space (including a recreational lake, hike and bike trails, sporting facilities and playgrounds).
3. A new town centre with shopping, cafes and restaurants, commercial services and community facilities.
4. A range of innovative housing, incorporating the latest technology and security information access and energy saving features.
5. A range of differing housing types and allotment sizes for medium density blocks including unit style accommodation through to traditional blocks.

The development is to be positioned as a higher quality and up-market estate in a village environment to accommodate a range of lifestyles namely growing families, young couples and singles, and retirees.

Part of the facilities to be provided involve the establishment of the Terrace Homes concept within the Mawson Lakes development.

## **Terrace Homes Concept**

The Terrace Homes concept provides for (5) basic allotment sizes varying from 5.1 metres up to 12 metres in width.

A Terrace Home will be built upon those allotments whereby each home will abut the next so that the building takes up the width of the land.

The homes are to be built in the style of inner city terrace homes and are to be modern in nature using modern materials with an open plan format.

Pursuant to the Joint Venture Agreement, the parties have as a Paramount Objective certain economic, social and environmental goals for the development which include improving the image, quality of life and opportunities in the Northern Metropolitan region of Adelaide, improving the environmental amenity, integrating the project with the surrounding community, and creating an urban development project acknowledged as a world leader.

As part of the overall development concept the Joint Venture has a clear requirement for the Terrace Homes concept to be built in accordance with strict guidelines to ensure that the concept provides for the Terrace Homes to appear harmoniously side by side improving the amenity of the area.

As such, the Joint Venture proposes to allow only a limited and approved number of builders to build the Terrace Homes concept pursuant to a tender process.

The Joint Venture considers that the Terrace Homes concept should be constructed by a restricted number of builders only in order to:-

- ensure the Joint Venturers are able to control all facets of the design, construction and pricing of the Terrace Homes concept;
- monitor the addition of new builders to construct improvements on the land to avoid a diminution in the standards of construction of the dwellings as they have not provided a standard specification for such a building and may not accord with those Terrace Homes adjoining it.

## **Notified Conduct**

On the 14th day of February 2003 DMS called for submissions from builders who were interested in constructing the Terrace Homes Concept.

After assessing the submissions made by the builders, DMS selected a number of builders as the preferred builders of choice to construct the Terrace Homes Concept, being those builders which submitted approved plans and designs, and constructed, or undertaken to construct, a display home of their product, and have agreed to participate in the overall Terrace Homes strategy for Mawson Lakes.

Control over design and quality outcomes continues to be a paramount objective of the Joint Venture. The builders have developed and continue to develop a product that will specifically achieve the desired future character and complement the landscaping, fencing and construction works undertaken by DMS to provide themed and completed house and land packages.

The Joint Venture propose that in respect of sales of the Terrace Homes concept that the Joint Venture include in the sale contracts for the land component a condition that the purchaser enter into a building contract to construct improvements on the land with one of the preferred builders.

It is presently proposed that a minimum of four builders are approved with up to a further two under consideration.

### **Public Benefit**

The Joint Venture considers that this arrangement should be allowed in order to:

- ensure the Joint Venture is able to control the continuity of design, construction and value of the land with respect to the Terrace Homes Concept; and
- maintain a quality product that upholds the public image of the Joint Venture as the provider of a high quality housing product.

The Joint Venture has limited the amount of land stocks available for the Terrace Homes concept and therefore restricts the potential involvement of additional builders in a manner which would produce an acceptable economic return to them. In this regard, should an attempt be made to introduce additional builders, the Joint Venture believes there would be a corresponding diminution in quality of design and construction of dwellings provided by those additional builders as each tries to maintain an economic return.

The Joint Venture considers that the public benefit arising from the notified conduct is the protection of the value of the homes of consumers who purchase a Terrace Home within the Mawson Lakes Development. Additionally, the nominated builders have been able to come up with a product that provides value, design variety and quality for consumers and economic sustainability for the builders as they have specialisation in the construction of these type of homes. As a consequence, these nominated builders have shown increased business efficiency as they are able to provide this particular product at a competitive price and improved product quality compared to other builders who may wish to construct the Terrace Homes concept.

The Joint Venture considers that the likely benefit to the public from the proposed conduct will outweigh any likely detriment.