



**Australian
Competition &
Consumer
Commission**

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18 October 2005

Mr Anthony Calvi
Group General Counsel & Company Secretary
MAB Corporation Pty Ltd
Level 1, 54 St Kilda Road
ST Kilda VIC 3182

Dear Mr Calvi

**Re: Third line forcing notifications N92147 and N92148
lodged by Conder Tower Pty Ltd and Aquavista Tower Pty Ltd**

I refer to the above third line forcing notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 5 October 2005. The notifications have been placed on the ACCC's public register.

You have described the conduct as follows:

N92147

Conder Tower Pty Ltd (Conder Tower) proposes to sell or offer to sell subdivided retail properties in the Conder Tower of the NewQuay precinct at Melbourne Docklands (the Retail Properties) to purchasers on the condition that purchasers:

- comply with various covenants and other obligations relating to the terms on which purchasers lease or operate the Retail Properties;
- acquire the property management services of Precinct Management Services (PMS) in accordance with a property management agreement for a term of 7 years with a further 3 year option (the property management agreement); and
- agree that they will novate the property management agreement to any subsequent purchaser for the unexpired term of that agreement (if any) if they sell the property.

Conder Tower proposes to refuse to sell or offer to sell the Retail Properties for the reason that the purchaser does not agree to comply with the above conditions.



N92148

Aquavista Tower Pty Ltd (Aquavista Tower) proposes to sell or offer to sell subdivided retail properties in the Aquavista Tower of the NewQuay precinct at Melbourne Docklands (the Retail Properties) to purchasers on the condition that purchasers:

- comply with various covenants and other obligations relating to the terms on which purchasers lease or operate the Retail Properties;
- acquire the property management services of PMS in accordance with a property management agreement for a term of 7 years with a further 3 year option (the property management agreement); and
- agree that they will novate the property management agreement to any subsequent purchaser for the unexpired term of that agreement (if any) if they sell the property

Aquavista Tower proposes to refuse to sell or offer to sell the Retail Properties for the reason that the purchaser does not agree to comply with the above conditions.

Legal immunity conferred by the notifications will come into force on 19 October 2005.

On the basis of the information that you have provided, it is not intended that further action be taken in this matter at this stage.

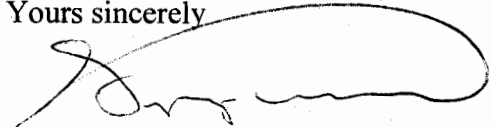
As with any notification, please note that the ACCC may act to remove the immunity afforded by these notifications at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

I also note your advice that Nolan Tower Pty Ltd has assigned all of its interests in the Nolan Tower site/project to Nolan Property Investments Pty Ltd and consequently Nolan Property Investments Pty Ltd would wish to rely on notification N40604 lodged by Nolan Tower Pty Ltd as the appropriate notification at the Nolan Tower site.

The ACCC is of the view that the immunity afforded by a notification cannot be transferred to a new party to whom the notifying party has assigned its rights, as only the party engaging in the third line forcing conduct can lodge a notification in relation to that conduct. The ACCC is of the view that Nolan Property Investments Pty Ltd would need to lodge a notification in relation to the conduct concerned by N40604 in order to obtain immunity for that conduct.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Isabelle Arnaud on 02 6243 1049.

Yours sincerely



Scott Gregson
General Manager
Adjudication Branch