



**McCULLOUGH ROBERTSON**

**l a w y e r s**

*Success. In business*

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Our Reference        MJH:RJT:DEV860/88

22 February 2005

The Proper Officer  
Australian Competition and Consumer Commission  
Level 3 AAMI Building  
500 Queen Street  
BRISBANE QLD 4000

Level 12 Central Plaza Two  
66 Eagle Street Brisbane Qld 4000

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ABN 42 721 345 951

Dear Sir/Madam

## EXCLUSIVE DEALING NOTIFICATION

We act for Devine Limited.

We refer to our letter to the Commission dated 9 February 2005, enclosing Form G – Exclusive Dealing Notification and the Commission's subsequent letter to us dated 16 February 2005, providing our client's legal immunity.

Our client now proposes to offer 80 people the opportunity to purchase any Devine Limited house and land package in Melbourne with an interest rate to be fixed for a period of 4 years provided that the purchase obtains its finance from First Permanent Group. Our client had previously only proposed to offer that promotion to 40 people.

We **enclose** Form G – Exclusive Dealing Notification on behalf of our client and a cheque in the sum of \$200.

As we set out in our previous letter to you, our client envisages that potential purchasers of Devine Limited house and land packages in Melbourne will inspect the properties and, if interest in buying, will seek credit approval from First Permanent Group for a loan with an interest rate fixed for a period of 4 years. If potential purchasers are not credit approved by First Permanent Group or choose not to finance through First Permanent Group, the purchasers will still be able to purchase house and land in Melbourne but the interest rate for the loan will not be fixed for the first 4 years of the loan.

The public benefit that arises from this conduct is that it allows purchasers of house and land packages from Devine Limited to have certainty with respect to the financing arrangements to apply to the purchase for the first 4 years of their loan. While Devine Limited is only offering to fix the interest rate for a period of 4 years if the purchaser uses First Permanent Group, purchasers are still free to use other financiers to finance the purchase of the house and land packages.

Our client submits that the market for the sale and purchase of residential house and land in Melbourne, including house and land packages, is very competitive, with a number of businesses competing with our client in the market for sales of properties and, likewise, the market for finance for the purchase of house and land packages is equally competitive with many financiers offering loans for the purchase of such properties. In the circumstances, our client submits that the proposed conduct will not have the effect of substantially lessening competition in the relevant markets and the public benefit will outweigh any potential negative impact of the proposed arrangements.

### Partners

Kerry Prior AM  
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Peter McKnulty  
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Ian Hazzard  
Stephen Jones

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Tony Cotter  
Damien Clarke  
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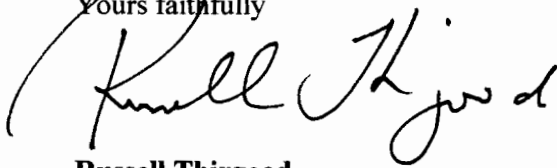
### Special Counsel

Prof Paul von Nessen  
Prof Peter Little  
Peter Gill  
Tracey Moore



Should you have any further queries, please do not hesitate to contact us. We thank you for your consideration.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Russell Thirgood', written over a large, faint circular mark.

**Russell Thirgood**  
Senior Associate

enclosure

## Form G

Commonwealth of Australia  
*Trade Practices Act 1974 ---- Sub-section 93(1)*  
**EXCLUSIVE DEALING  
NOTIFICATION**

To the Australian Competition and Consumer Commission:

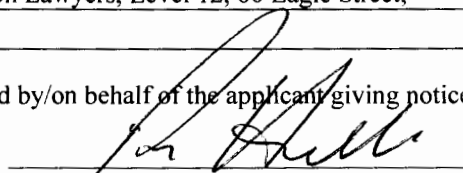
Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(2), (3), (4), (5), (6) or (7), or paragraph 47 (8) (a), (b) or (c) or (9) (a), (b), (c) or (d) of that Act in which the person giving notice engages or proposes to engage.

(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. Name of person giving notice  
(a) Devine Limited (ABN 51 010 769 365)  
(See Direction 2 on the back of this form)  
(b) Short description of business carried on by that person  
building of new homes and selling of house and land  
(c) Address in Australia for service of documents on that person  
Devine Limited, C/- McCullough Robertson Lawyers, Level 12, 66 Eagle Street  
Brisbane, Qld 4000
2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates  
  - house and land packages in Melbourne;
  - finance  
(b) Description of the conduct or proposed conduct  
Devine Limited proposes to offer 80 people to purchase any Devine Limited house and land in Melbourne with an interest rate to be fixed for a period of 4 years provided that the purchaser obtains its finance from First Permanent Group  
(See Direction 4 on the back of this Form)
3. (a) Class or classes of persons to which the conduct relates  
Purchasers of house and land packages in Melbourne who are credit approved by  
First Permanent  
(b) Number of those persons-  
(i) At present time 80  
(ii) Estimated within the next year 80  
(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses  
Not presently known
4. Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice  
Dominic McGann, C/- McCullough Robertson Lawyers, Level 12, 66 Eagle Street,  
Brisbane Qld 4000

Dated 22 February 2005

Signed by/on behalf of the applicant giving notice

  
(Signature)

Peter Brett Hobbs.  
(Full Name)

Advertising Operations Manager  
(Description)

## DIRECTIONS

1. If there is insufficient space on this form for the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the person giving the notice
2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1(a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. In item 1(b), describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in sub-section 47(2), (3), (4), (5), (6), (7), (8) or (9) of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. In item 3 (a), describe the nature of the business carried on by the persons referred to in that item.
6. In item 3(b) (ii), state an estimate of the highest number of persons with whom the person giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.

## NOTICE

If this notification is in respect of conduct of a kind referred to in sub-section 47(6) or (7) or paragraph 47(8)(c) or (9) (d) of the *Trade Practices Act 1974* ("the Act"), it comes into force at the end of the period prescribed for the purposes of subsection 93(7a) of the Act ("the prescribed period") unless the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, or this notification is withdrawn.

The prescribed period is 21 days (if this notification is given on or before 30 June 1996) or 14 days (if this notification is given after 30 June 1996), starting on the day when this notification is given.

If the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, this notification will not come into force unless the Commission, after completing the procedures in section 93A of the Act, decides not to give a notice under subsection 93(3A) of the Act. The notification comes into force when that decision is made.

If this notification is in respect of conduct of a kind referred to in subsection 47(2), (3), (4) or (5), or paragraph 47(8)(a) or (b) or (9)(a), (b) or (c), of the Act, it comes into force when it is given.