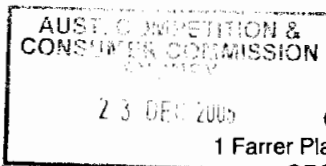


Our reference
KBE/MM/MIRV11189-9024490



Governor Phillip Tower
1 Farrer Place Sydney NSW 2000
GPO Box 9925 NSW 2001
Tel (02) 9210 6500
Fax (02) 9210 6611
www.corrs.com.au

**CORRS
CHAMBERS
WESTGARTH**
lawyers

N31497

FILE No:
DOC:
MARS/PRISM:

Sydney
Melbourne
Brisbane
Perth
Canberra
Gold Coast

23 December 2005

Director of Adjudications
Australian Competition and Consumer
Commission
Level 7, Angel Place
123 Pitt Street
SYDNEY NSW 2000

Contact
Mark McCowan (02) 9210 6080
Email: mark.mccowan@corrs.com.au

Partner
Kathryn Edghill (02) 9210 6822
Email: kathryn.edghill@corrs.com.au

Dear Sir/Madam

Mirvac Homes (NSW) Pty Limited - Notification of third line forcing

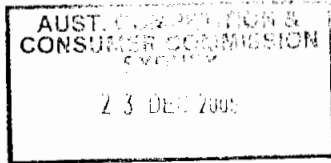
We **enclose** for lodgement an exclusive dealing notification covering Mirvac Homes (NSW) Pty Limited. A cheque in payment of the lodgement fee of \$100 is also **enclosed**.

Details of the conduct are contained in the notification. Please contact me on (02) 9210 6822 or Mark McCowan on (02) 9210 6080 if you would like to discuss any aspect of the notification.

Yours sincerely

Kathryn Edghill
Partner

attachments



N 31497

Regulation 9

FORM G

Commonwealth of Australia

Trade Practices Act 1974 –sub-section 93(1)

EXCLUSIVE DEALING: NOTIFICATION

To the Australian Competition & Consumer Commission:

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

1. (a) **Name of person giving notice:**
Mirvac Homes (NSW) Pty Limited ACN 006 922 998 of Level 2, 30 Cowper Street, Parramatta, NSW 2150 (**Mirvac Homes**)
- (b) **Short description of business carried on by that person:**
Land Developer
- (c) **Address in Australia for service of documents on that person:**
C/- Kathryn Edghill
Partner
Corrs Chambers Westgarth
Governor Phillip Tower
1 Farrer Place
SYDNEY NSW 2000
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**
 - various house and land packages in the Sydney basin;
 - marketing and sale of the house and land packages to purchasers;
 - energy-efficient appliances compatible with the GridX System (as defined in 2(b) below); and
 - electricity, hot water, climate control water and, potentially, natural gas.
- (b) **Description of the conduct or proposed conduct:**
Mirvac Homes proposes to sell 16 residential house and land packages located at Hindostan Road, Neva Street and Hillsborough

Crescent Glenfield, NSW 2167. That land is currently comprised in proposed lots 2 – 17 of lot 2 in DP 270460.

GridX Power Pty Ltd ACN 100 209 354 of 76C Wilford Street, Newtown, NSW (**GridX**) is a manufacturer and supplier of environmentally friendly energy systems.

The GridX system comprises:

- mini co-generation systems;
- chiller units;
- a thermal network to provide hot water from the mini co-generation systems and climate control water from the chillers;
- an electricity network connecting the mini co-generation systems, the chiller units and each house connected to the network;
- streetlights connected to the electricity network; and
- a static interrupter, which enables the system to operate as an island independently from the existing energy grid,

which provides electricity, hot water and, if required, climate control water to residential properties (**GridX System**).

Housing estates incorporating the GridX System are more energy efficient than those with standard appliance connected to the existing energy grid.

As part of the GridX System, GridX is to bill occupants of the houses for hot water, climate control water and electricity and will seek to obtain gas retailers' consent to bill the occupants for gas charges as agent for the gas retailers.

The contracts of sale in relation to the lots described above will require the purchasers to enter into a contract with GridX for:

- (i) the installation in each purchaser's particular house of certain appliances adapted to be compatible with the GridX System; and
- (ii) the supply of electricity, hot water and climate control water.

The proposed conduct will not lessen competition in the markets for the relevant products and services as:

- the property market in metropolitan Sydney is highly competitive and the proposed house and land packages will compete with a vast range of alternative residential developments and dwellings. Accordingly, the proposed conduct will not limit the vast range of choices available to potential purchasers;

- there is significant and effective competition between a large number of residential property developers in the metropolitan Sydney area;
- the market for retail energy supply in metropolitan Sydney is highly competitive and the proposed conduct will not impinge upon the effective competition in this market.

The proposed conduct will be of benefit to the public because it will:

- enable Mirvac Homes to offer a residential housing development with improved energy efficiency and which offers significant environmental benefits;
- enable Mirvac Homes to connect each house in the development to the GridX System, which will reduce the costs associated with the system for each user; and
- enable Mirvac Homes to offer a 10% discount on energy to each household connected to the GridX System.

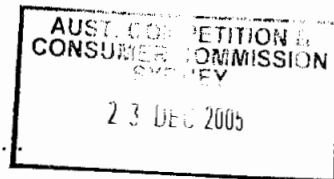
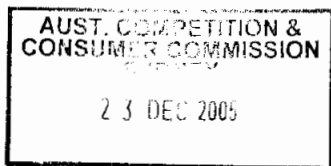
The proposed conduct will encourage other residential property developers to incorporate environmentally-friendly energy solutions into future developments.

The benefits from the proposed conduct will outweigh any possible detriment considered to arise from the proposed conduct.

- 3. (a) Class or classes of persons to which the conduct relates:**
Those of the general public who are seeking to purchase residential dwellings in metropolitan Sydney.
- (b) Number of those persons –**
- (i) At present time:** Nil.
- (ii) Estimated within the next year:** 16 house and land packages requiring the installation of the GridX System are to be sold by Mirvac Homes.
- (c) Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:**
Not applicable.
- 4. Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:**
Kathryn Edghill
Partner
Corrs Chambers Westgarth
Governor Phillip Tower
1 Farrer Place
SYDNEY NSW 2000

Dated: 23 December 2005

Signed by/on behalf of the person giving this notice.



A handwritten signature in black ink, appearing to read "Kathryn Edghill".

.....
Kathryn Edghill
Partner, Corrs Chambers Westgarth

N31497