



AUST. COMPETITION & CONSUMER COMMISSION PERTH 26 APR 2006

24 April 2006

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Email: jconnell@younglaw.biz

The Australian Competition and Consumer Commission (ACCC)
PO Box 6381
EAST PERTH WA 6892

ACCC
MARS#:
DOC ID:
FILE:

Dear Sirs

FORM G EXCLUSIVE DEALING NOTIFICATION RELATING TO CONDUCT UNDER SUBSECTION 47(6) AND/OR 47(7) OF THE TRADE PRACTICES ACT (SEE NOTIFICATION N70442)

House and Land Packages at Cape View Beach Resort, Busselton, Western Australia

We refer to our letter dated 9 March 2006, your fax of 16 March 2006, our subsequent telephone discussions with Sarah Chubb and our most recent faxes of 10 and 18 April 2006.

We confirm that we act for the following companies and individuals, being parties to a joint venture in respect of the sale of land at Cape View Beach Resort:

- (a) Cape View Developments WA Pty Ltd ACN 109 689 643 ("Cape View");
(b) Westbeach Enterprises Pty Ltd (ACN 100 921 033) as trustee for the McKeown Property Trust;
(c) Begonia Gardens Pty Ltd (ACN 074 783 449) as trustee for the Gear Property Trust;
(d) Quadrant Investments Pty Ltd (ACN 119 035 693) as trustee for the Kinnear Family Trust;
(a) Sputnik Pty Ltd ACN 117 437 368 as trustee for Satellite Family Trust;
(b) Venetia Investments Pty Ltd (ACN 119 073 791) as trustee for the G Trust; and
(c) Venetia Investments Pty Ltd (ACN 119 073 791) as trustee for the H & G Trust.

For ease of reference, the above named entities are collectively referred to as the "Seller" or "our client" in this letter.

As indicated in our letter of 9 March, Cape View, and the rest of the entities listed above propose to offer 20 strata title lots for sale to buyers on the condition that each buyer enters into a building contract with a builder nominated by the Seller to construct a dwelling on the lot purchased.

We believe that this may constitute or involve exclusive dealing under section 47(6) and/or section 47(7) of the Trade Practices Act 1974. Accordingly, our client wishes to lodge a notification in respect of this proposed conduct.

Notification

We **enclose** the following materials for your attention:

1. 6 Form G – Exclusive Dealing Notifications in the name of, and signed by or on behalf of, each of the parties comprising the Seller (except Cape View).
2. A cheque for \$600.00 payable to the Australian Competition and Consumer Commission, being the total of the Notification fees payable by each of the parties comprising the Seller (except for Cape View which has already paid its fee).

We refer you to the submission provided by Cape View in respect of Notification 70442 and confirm that we are instructed that the conduct and circumstances in question will be substantially the same for the rest of the parties comprising the “Seller”. Accordingly, we request that you refer to that submission for further information in respect of the public benefits and limited potential negative impact of the proposed arrangement (and for a copy of the draft special condition which will be inserted in each contract for the sale and purchase of a lot).

We look forward to receiving confirmation that additional Notifications have been placed on the register in respect of each of the additional entities comprising the “Seller”.

If you have any queries in relation to the above, please contact Joanne Connell.

Thank you for your assistance.

Yours faithfully


Joanne Connell
Director

Encl.

cc. Mr David Tucker – Australian Development Consultants

Form GN70451

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. (a) Name of person giving notice: **Westbeach Enterprises Pty Ltd ACN 100 921 033 as trustee for the McKeown Property Trust**
(See Direction 2 on the back of this form)
- (b) Short description of business carried on by that person:
Property development.....
- (c) Address in Australia for service of documents on that person:
C/- Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....
2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:
Construction of tourist accommodation units, on land to be sold by the person giving the notice and others, by a single nominated builder.....
- (b) Description of the conduct or proposed conduct:
Condition of purchase of property that buyer appoints builder nominated by seller to build tourist accommodation unit on the property (see Annexure "A").....
(See Direction 4 on the back of this Form)
3. (a) Class or classes of persons to which the conduct relates:
Buyers of lots to be used for tourist accommodation.....
- (b) Number of those persons--
(i) At present time... - Nil.....
(ii) Estimated within the next year. - 20.....
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:
Unknown at this stage. Properties not yet offered for sale.....
4. Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice:
Joanne Connell of Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....

Dated 21/4/ 2006

Signed by/on behalf of the applicant giving notice

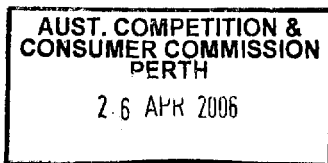
(Signature)

MARK MCKEOWN

(Full Name)

DIRECTOR

(Description)



ANNEXURE "A" TO FORM G NOTIFICATION

Under the terms of the proposed sale contract each buyer of one of the 20 vacant strata title lots to which a bungalow type dwelling has been allocated within Stage 3 of the Cape View Beach Resort ("the Resort") will be required to enter into a separate building contract with a nominated builder ("the Nominated Builder") pursuant to which the Nominated Builder shall construct the bungalow on the lot purchased.

The building contract between each of the buyers and the Nominated Builder will be in a form to be agreed between the Seller and the Nominated Builder.

The proposed conduct will only occur once in respect of each lot, at the time of purchase of the lot, when the obligation for the buyer to engage the Nominated Builder is imposed under the terms of the contract for the sale and purchase of the lot.

The requirement that the buyers enter into the building contract may constitute exclusive dealing under subsections 47(6) and/or 47(7) of the Trade Practices Act 1974 and our client wishes to notify in respect of this proposed conduct.

Form G N70452

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

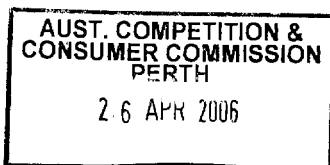
To the Australian Competition and Consumer Commission:

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. (a) Name of person giving notice: **Begonia Gardens Pty Ltd (ACN 074 783 449) as trustee for the Gear Property Trust**.....
(See Direction 2 on the back of this form)
- (b) Short description of business carried on by that person:
Property development.....
- (c) Address in Australia for service of documents on that person:
C/- Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....
2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:
Construction of tourist accommodation units, on land to be sold by the person giving the notice and others, by a single nominated builder.....
- (b) Description of the conduct or proposed conduct:
Condition of purchase of property that buyer appoints builder nominated by seller to build tourist accommodation unit on the property (see Annexure "A").....
(See Direction 4 on the back of this Form)
3. (a) Class or classes of persons to which the conduct relates:
Buyers of lots to be used for tourist accommodation.....
- (b) Number of those persons--
(i) At present time... - Nil.....
(ii) Estimated within the next year. - 20.....
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:
Unknown at this stage. Properties not yet offered for sale.....
4. Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice:
Joanne Connell of Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....

Dated 21/4/....., 2006



Signed by/on behalf of the applicant giving notice

George Gear
.....
(Signature)
GEORGE GEAR
.....
(Full Name)
DIRECTOR
.....
(Description)

ANNEXURE "A" TO FORM G NOTIFICATION

Under the terms of the proposed sale contract each buyer of one of the 20 vacant strata title lots to which a bungalow type dwelling has been allocated within Stage 3 of the Cape View Beach Resort ("the Resort") will be required to enter into a separate building contract with a nominated builder ("the Nominated Builder") pursuant to which the Nominated Builder shall construct the bungalow on the lot purchased.

The building contract between each of the buyers and the Nominated Builder will be in a form to be agreed between the Seller and the Nominated Builder.

The proposed conduct will only occur once in respect of each lot, at the time of purchase of the lot, when the obligation for the buyer to engage the Nominated Builder is imposed under the terms of the contract for the sale and purchase of the lot.

The requirement that the buyers enter into the building contract may constitute exclusive dealing under subsections 47(6) and/or 47(7) of the Trade Practices Act 1974 and our client wishes to notify in respect of this proposed conduct.

Form G N70453

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. (a) Name of person giving notice: **Quadrant Investments Pty Ltd (ACN 119 035 693) as trustee for the Kinnear Family Trust**.....
(See Direction 2 on the back of this form)
- (b) Short description of business carried on by that person:
Property development.....
- (c) Address in Australia for service of documents on that person:
C/- Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....
- 2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:
Construction of tourist accommodation units, on land to be sold by the person giving the notice and others, by a single nominated builder.....
- (b) Description of the conduct or proposed conduct:
Condition of purchase of property that buyer appoints builder nominated by seller to build tourist accommodation unit on the property (see Annexure "A").....
(See Direction 4 on the back of this Form)
- 3. (a) Class or classes of persons to which the conduct relates:
Buyers of lots to be used for tourist accommodation.....
- (b) Number of those persons--
(i) At present time... - **Nil**.....
(ii) Estimated within the next year. - **20**.....
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:
Unknown at this stage. Properties not yet offered for sale.....
- 4. Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice:
Joanne Connell of Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....

Dated 21 / 4 / 2006

Signed by on behalf of the applicant giving notice

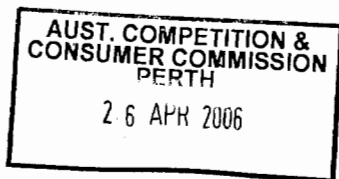
(Signature)

PETER KINNEAR

(Full Name)

DIRECTOR

(Description)



ANNEXURE "A" TO FORM G NOTIFICATION

Under the terms of the proposed sale contract each buyer of one of the 20 vacant strata title lots to which a bungalow type dwelling has been allocated within Stage 3 of the Cape View Beach Resort ("the Resort") will be required to enter into a separate building contract with a nominated builder ("the Nominated Builder") pursuant to which the Nominated Builder shall construct the bungalow on the lot purchased.

The building contract between each of the buyers and the Nominated Builder will be in a form to be agreed between the Seller and the Nominated Builder.

The proposed conduct will only occur once in respect of each lot, at the time of purchase of the lot, when the obligation for the buyer to engage the Nominated Builder is imposed under the terms of the contract for the sale and purchase of the lot.

The requirement that the buyers enter into the building contract may constitute exclusive dealing under subsections 47(6) and/or 47(7) of the Trade Practices Act 1974 and our client wishes to notify in respect of this proposed conduct.

Form G N70454

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. (a) Name of person giving notice: **Sputnik Pty Ltd ACN 117 437 368 as trustee for Satellite Family Trust**
.....
(See Direction 2 on the back of this form)
(b) Short description of business carried on by that person:
Property development.....
(c) Address in Australia for service of documents on that person:
C/- Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....
2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:
Construction of tourist accommodation units, on land to be sold by the person giving the notice and others, by a single nominated builder
.....
(b) Description of the conduct or proposed conduct:
Condition of purchase of property that buyer appoints builder nominated by seller to build tourist accommodation unit on the property (see Annexure "A").....
(See Direction 4 on the back of this Form)
3. (a) Class or classes of persons to which the conduct relates:
Buyers of lots to be used for tourist accommodation.....
(b) Number of those persons--
(i) At present time... - Nil.....
(ii) Estimated within the next year. - 20.....
(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:
Unknown at this stage. Properties not yet offered for sale.....
4. Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice:
Joanne Connell of Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....

Dated 21/4, 2006

Signed by/on behalf of the applicant giving notice

David S. Tucker

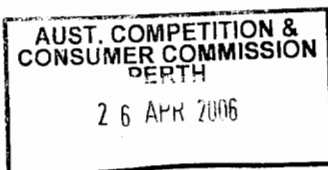
(Signature)

David S. Tucker

(Full Name)

DIRECTOR

(Description)



ANNEXURE "A" TO FORM G NOTIFICATION

Under the terms of the proposed sale contract each buyer of one of the 20 vacant strata title lots to which a bungalow type dwelling has been allocated within Stage 3 of the Cape View Beach Resort ("the Resort") will be required to enter into a separate building contract with a nominated builder ("the Nominated Builder") pursuant to which the Nominated Builder shall construct the bungalow on the lot purchased.

The building contract between each of the buyers and the Nominated Builder will be in a form to be agreed between the Seller and the Nominated Builder.

The proposed conduct will only occur once in respect of each lot, at the time of purchase of the lot, when the obligation for the buyer to engage the Nominated Builder is imposed under the terms of the contract for the sale and purchase of the lot.

The requirement that the buyers enter into the building contract may constitute exclusive dealing under subsections 47(6) and/or 47(7) of the Trade Practices Act 1974 and our client wishes to notify in respect of this proposed conduct.

Form G N70455

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

To the Australian Competition and Consumer Commission:

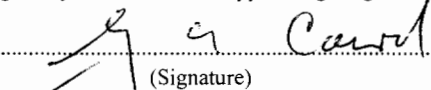
Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(2), (3), (4), (5), (6) or (7), or paragraph 47 (8) (a), (b) or (c) or (9) (a), (b), (c) or (d) of that Act in which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

(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of person giving notice: **Venetia Investments Pty Ltd (ACN 119 073 791) as trustee for the H & G Trust**
.....
(See Direction 2 on the back of this form)
- (b) Short description of business carried on by that person:
Property development.....
- (c) Address in Australia for service of documents on that person:
C/- Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....
2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:
Construction of tourist accommodation units, on land to be sold by Venetia Investments Pty Ltd (ACN 119 073 791) as trustee for the H & G Trust and others, by a single nominated builder
.....
- (b) Description of the conduct or proposed conduct:
Condition of purchase of property that buyer appoints builder nominated by seller to build tourist accommodation unit on the property (see Annexure "A").....
(See Direction 4 on the back of this Form)
3. (a) Class or classes of persons to which the conduct relates:
Buyers of lots to be used for tourist accommodation.....
- (b) Number of those persons--
(i) At present time... - **Nil**.....
(ii) Estimated within the next year. - **20**.....
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:
Unknown at this stage. Properties not yet offered for sale.....
4. Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice:
Joanne Connell of Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....

Dated 21/4/06, 2006

Signed by/on behalf of the applicant giving notice


.....
(Signature)

GREGORY ALEXANDER CAIRD
.....
(Full Name)

DIRECTOR
.....
(Description)

ANNEXURE "A" TO FORM G NOTIFICATION

Under the terms of the proposed sale contract each buyer of one of the 20 vacant strata title lots to which a bungalow type dwelling has been allocated within Stage 3 of the Cape View Beach Resort ("the Resort") will be required to enter into a separate building contract with a nominated builder ("the Nominated Builder") pursuant to which the Nominated Builder shall construct the bungalow on the lot purchased.

The building contract between each of the buyers and the Nominated Builder will be in a form to be agreed between the Seller and the Nominated Builder.

The proposed conduct will only occur once in respect of each lot, at the time of purchase of the lot, when the obligation for the buyer to engage the Nominated Builder is imposed under the terms of the contract for the sale and purchase of the lot.

The requirement that the buyers enter into the building contract may constitute exclusive dealing under subsections 47(6) and/or 47(7) of the Trade Practices Act 1974 and our client wishes to notify in respect of this proposed conduct.

Form G N70456.

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

To the Australian Competition and Consumer Commission:

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(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of person giving notice: **Venetia Investments Pty Ltd (ACN 119 073 791) as trustee for the G Trust**
.....
(See Direction 2 on the back of this form)
- (b) Short description of business carried on by that person:
Property development.....
- (c) Address in Australia for service of documents on that person:
C/- Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....
2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:
Construction of tourist accommodation units, on land to be sold by Venetia Investments Pty Ltd (ACN 119 073 791) as trustee for the G Trust and others, by a single nominated builder
.....
- (b) Description of the conduct or proposed conduct:
Condition of purchase of property that buyer appoints builder nominated by seller to build tourist accommodation unit on the property (see Annexure "A").....
(See Direction 4 on the back of this Form)
3. (a) Class or classes of persons to which the conduct relates:
Buyers of lots to be used for tourist accommodation.....
- (b) Number of those persons--
(i) At present time... - Nil.....
(ii) Estimated within the next year. - 20.....
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:
Unknown at this stage. Properties not yet offered for sale.....
4. Names and address of person authorised by the person giving this notice to provide additional information in relation to this notice:
Joanne Connell of Young & Connell, Lawyers, Level 10, 111 St. George's Terrace, Perth, WA, 6000.....

Dated 21/4/ 2006

Signed by/on behalf of the applicant giving notice

G. A. Caird
(Signature)

GREGORY ALEXANDER CAIRD
(Full Name)

DIRECTOR
(Description)



ANNEXURE "A" TO FORM G NOTIFICATION

Under the terms of the proposed sale contract each buyer of one of the 20 vacant strata title lots to which a bungalow type dwelling has been allocated within Stage 3 of the Cape View Beach Resort ("the Resort") will be required to enter into a separate building contract with a nominated builder ("the Nominated Builder") pursuant to which the Nominated Builder shall construct the bungalow on the lot purchased.

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The requirement that the buyers enter into the building contract may constitute exclusive dealing under subsections 47(6) and/or 47(7) of the Trade Practices Act 1974 and our client wishes to notify in respect of this proposed conduct.