

21 June 2006

LEVEL 49 CENTRAL PARK 152-158 ST GEORGE'S TERRACE PERTH
GPO BOX A39 PERTH WA 6837 AUSTRALIA
DX 124 PERTH www.minterellison.com
TELEPHONE +61 8 9429 7444 FACSIMILE +61 8 9429 7666

By Hand

Australian Competition and Consumer Commission
Level 3, East Point Plaza
233 Adelaide Terrace
PERTH WA 6000



Dear Sirs

Exclusive dealing notification

We represent Peet Ashton Heights Ltd (ACN 103 038 704). We enclose the following documents:

1. Form G Exclusive Dealing Notification together with submissions in annexure A;
2. A copy of the plans of the proposed development at Ashton Mews;
3. Our cheque in the sum of \$100 being payment of the lodgement fee.

We look forward to receiving your response in due course.

Yours faithfully
MINTER ELLISON

A handwritten signature in cursive script that reads "Minter Ellison".

Contact: Graeme Slattery Direct phone: 61 8 9429 7576
Email: graeme.slattery@minterellison.com
Partner responsible: Michael Ferguson Direct phone: +61 8 9429 7402
Our reference: GMS:60-1299242

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 engaged or proposes to engage.

- 1. (a) Name of person giving notice:
Peet Ashton Heights Limited (ACN 103 038 704)
- (b) Short description of business carried on by that person:
Residential land development.
- (c) Address in Australia for service of documents on that person:
c/- Graeme Slattery
Minter Ellison Lawyers
Level 49
152-158 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:
Land sales.
- (b) Description of the conduct or proposed conduct:
See Annexure A.
- 3. (a) Class or classes of persons to which the conduct relates:
Purchasers of land within Ashton Mews development.
- (b) Number of those persons:
 - (i) At the present time:
Nil.
 - (ii) Estimated within the next year:
27.

- (c) Where the 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:

Graeme Slattery
Minter Ellison Lawyers
Level 49
152-158 St George's Terrace
PERTH WA 6000

DATED 19th June 2006

SIGNED by/on behalf of the applicant



(Signature)

Adam SCAFETTA

(Full Name)

COMPANY SECRETARY

(Description)

DIRECTIONS

1. Where there is insufficient space on this form to furnish 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 sub-section 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 June 30 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 sub-section 93(3A) of the Act. The notification comes into force when that decision is made.

If this notification is in respect of conduct or a kind referred to in sub-section 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.

ANNEXURE A

1. Peet Ashton Heights Limited (ACN 103 038 704) (**Peet Ashton Heights**) is a developer of residential land in Western Australia.
2. Peet Ashton Heights is undertaking a residential subdivision of land at Tapping in the Northern suburbs of Perth known as Ashton Heights Private Estate (**Ashton Heights**). Peet Ashton Heights is developing a high density group dwelling development of 27 survey-strata title lots within Ashton Heights to be known as Ashton Mews.
3. Tapping is a new and rapidly expanding residential area. There are a number of other land developments in the area involving the subdivision of vacant land for residential use.
4. Ashton Mews forms part of the larger development of Ashton Heights. Ashton Heights comprises of approximately 602 lots. Lots are being released in stages. As at 7 June 2006 302 lots have been sold. A further 50 lots are subject to contracts that are yet to settle. The lot sizes range from the traditional 500 to 600 m² lots to cottage lots of 300 to 350 m².
5. Ashton Mews consists of lots of approximately 220 m² in a survey-strata title environment intended to:
 - (a) provide more compact housing choices for affordable and sustainable living to a wide demographic of the population including first home buyers, singles, empty nesters and older people down sizing;
 - (b) provide low maintenance, easy care homes in a secure complex including communal facilities (lap pool and sun deck), secure gate, quality street scape and landscaping and designated pedestrian walkways including private access to the public wetland and surrounding recreational areas; and

- (c) involve the development of compact detached and semi-detached urban style housing on lots of approximately 220 m² comprising of three bedrooms, two bathrooms with a floor area of approximately 110m².
6. It is intended that the housing at Ashton Mews will broaden the social base of the Ashton Heights development by providing an affordable range of small lot dwellings. These dwellings will contrast with the dwellings built on the larger traditional and cottage size lots.
 7. Ashton Mews is aimed at providing a style of housing which will reach a market segment that may not otherwise be attracted to Ashton Heights comprising of first home buyers, singles, empty nesters and older people down sizing. It aims to provide for the increasing demand for smaller, more compact and low maintenance housing.
 8. Ashton Mews is part of an expanding development in the Northern Joondalup area and has close proximity to the City of Joondalup and major transport infrastructure. This proximity will support the higher density living proposed at Ashton Mews.
 9. Coordination between Peet Ashton Heights and the builder in the construction of the homes of Ashton Mews is required so that the development at Ashton Mews results in a functional and a consistent product. As this is a survey-strata title group dwelling environment which aims to deliver compact homes, proper planning is essential to ensure the harmony of the dwellings that are constructed. It is considered essential that Peet Ashton Heights has control over the development to ensure the complementary, consistent and orderly development of dwellings in the complex together with the common property.
 10. The proposed development at Ashton Mews has a specified dwelling for each lot. It is necessary that the specified dwelling be constructed to ensure that the development is able to effectively utilise the space available, create visual

harmony of appearance and design and provide a secure and consistent environment for living.

11. In order that the design outcomes mentioned above for the development of Ashton Mews can be achieved it is proposed that the land be offered for sale as house and land packages. Subject to the approval under the *Trade Practices Act* it is proposed that Peet Ashton Heights would enter an agreement with Tangent Nominees Pty Ltd t/as Summit Homes Group (**the builder**) on the basis that the 27 lots would be sold on condition that the purchaser enters into a building contract with the builder for the construction of a specified dwelling on the lot.
12. Prospective purchasers will be aware of the dwelling design, set back and boundaries for their own and for neighbouring properties before purchasing a lot in Ashton Mews. This would not be possible if multiple builders were utilised on the project.
13. The land at Ashton Mews will be marketed by Peet Ashton Heights as house and land packages.
14. The proposed contract for sale of lots in Ashton Mews has not yet been drafted. It is proposed to include a term in the contract for sale to the effect detailed in paragraph 11 above.
15. It is intended that the building contract be based upon the standard Housing Industry Association lump sum building contract.
16. It is considered that the proposal will not have the effect of substantially lessening competition in the market for residential land and/or building services in Perth or in the Northern suburbs of Perth in that:
 - (a) there is an adequate supply of land by a number of developers in the surrounding areas giving potential purchasers of residential land a range of alternative choices;

- (b) there are only 27 survey-strata title lots within Ashton Mews. There are approximately 250 lots in the Ashton Heights Development remaining which would not have the same requirements as lots in Ashton Mews. Accordingly, there would be an adequate supply of other land for purchase on an unrestricted basis in Tapping;
- (c) the proposed house and land contracts would provide a public benefit by reason that the land and house should be a less expensive product when compared with a purchaser building a similar home in the surrounding area on the larger lots. The coordination between Peet Ashton Heights and the builder may avoid incurring unnecessary costs of engaging external contractors at normal industry prices. Lower prices will result in a larger section of the market potentially having access to land in the area than would otherwise be the case.
- (d) the coordination between Peet Ashton Heights and the builder may also assist in reducing the time taken for completion of the dwellings than would otherwise be the case, through the consistency of design and the ability to use trades to carry out work on more than one dwelling at a time;
- (e) there would be a public benefit by reason that the coordination is necessary to enable the proposed self contained secure development of Ashton Mews to proceed and achieve the desired environment and attract the different type of purchaser that may not be attracted to other land in the area.

17. Homes will be finished in a consistent manner with a high visual amenity of the surrounding areas. This consistency will enable the fullest utilisation of the surrounding wetlands and recreational areas. It will also enable the provision of communal facilities and security through the secure gate.

18. It is expected that the consistency of product will assist the higher retention in value of homes within Ashton Mews.
19. Through utilisation of a single builder and specified buildings it will be possible to maintain consistency of product and finish to a high standard.
20. On the basis of the above it is suggested that the public benefits flowing from the proposed arrangement will substantially outweigh any public detriment that the proposed arrangements may cause.

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