

BAIN GASTEEN

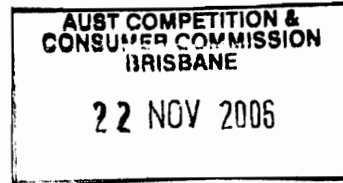
Your Ref:

Our Ref: MRF:JB:DAN860/78-96614

FILE No:
DOC:
MARS/PRISM:

21 November 2006

Chief Executive Officer
Australian Competition & Consumer Commission
PO Box 10048
Adelaide St Post Office
BRISBANE QLD 4000



Dear Sir/Madam

RE: EXCLUSIVE DEALING: NOTIFICATION

We act for Danjala Pty Ltd.

Please find **enclosed** a notification relating to the exclusive dealing on behalf of our client together with a cheque in the sum of \$100.00 in respect of your fee.

Please contact us should you require any further information.

Yours faithfully
BAIN GASTEEN

Marcus Ford
Partner

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Email: mford@baingasteen.com.au

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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 subsection 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.

- 1. (a) **Name of person giving notice:**
Danjala Pty Ltd ACN 009 785 915 ("Danjala")
- (b) **Short description of business carried on by that person:**
Company engaged in the development of land.
- (c) **Address in Australia for service of documents on that person:**
Suite 401 – Pivotal Point, 50 Marine Parade, PO Box 3278 Australia Fair, Southport QLD 4215
- 2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**
This notice relates to the sale of land by Danjala in association with houses to be constructed by the builder on a parcel of land to be subdivided at Keysborough, Victoria.
- (b) **Description of the proposed conduct:**
Danjala proposes to offer land to the pubic as part of a house and land package. The customer will acquire the land on condition that building services are to be performed by a third party, Carlisle Homes Pty Ltd ACN 106 263 209 ("Carlisle").
- 3. (a) **Class or classes of persons to which the conduct relates:**
The conduct relates to actual and potential house and land purchasers, purchasing land from Danjala and building services from Carlisle.
- (b) **Number of those persons?**
 - (i) At present time - 0
 - (ii) Estimated within the next year – 14
 - (iii) Estimated with the next five years – 0
- (c) **Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses**

It is not possible to provide this information at this time as the potential purchasers have not been identified.

4. Names and address of person authorized by the person giving this notice to provide additional information in relation to this notice

Marcus Ford, Bain Gasteen, Level 4, 171 George Street, GPO Box 275 Brisbane Qld 4001

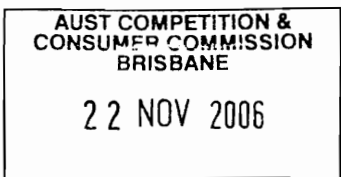
Dated 21 November 2006

Signed by/on behalf of the applicant giving notice

.....
(Signature)

Marcus Roy Ford
(Full Name)

.....
(Description)



SUBMISSIONS BY DANJALA PTY LTD
IN SUPPORT OF NOTIFICATION UNDER SECTION 93(1)
OF THE TRADE PRACTICES ACT 1974

1. Background

- 1.1** Danjala wishes to sell 14 lots in their proposed land subdivision in Keysborough (Vic) and construct houses on the lots built by a third party Carlisle. All houses have been preplanned by Danjala as part of an integrated housing development.
- 1.2** The purchasers will be required to enter into 2 separate contracts: a building agreement with Carlisle and a contract for the sale of land with Danjala. The sale of the land under the contract for sale of the land will be conditional on the purchaser entering into the building contract with Carlisle.
- 1.3** The Keysborough subdivision is expected to comprise approximately 14 lots to be developed progressively. It is proposed that this offer be made available to the public as soon as possible.

2. Market

- 2.1** The market in which the proposed conduct relates is the residential real estate market in the Melbourne region.

3. Analysis of the conduct

- 3.1** The conduct described in Form G is exclusive dealing within sections 47(6) and 47(7) of the Trade Practices Act 1974 (Cth). Danjala submits that there is no likely detriment to the public resulting from that conduct.
- 3.2** The proposed conduct does not have the effect of substantially lessening competition in the relevant market in that the proposed Keysborough subdivision of 14 lots represents a small proportion of residential real estate available for development in the Melbourne region.
- 3.3** The proposed conduct offers significant benefits to purchasers in that:
- (a) Carlisle does not need to apply its resources in purchasing 14 lots. Danjala can undertake a far larger project than would otherwise be the case, resulting in superior quality control in overall project imaging and better design co-ordination of individual houses on adjoining lots under a master plan.
 - (b) Purchasers will have better information and certainty about the entire development as it will be under Danjala's control.
 - (c) Purchasers will not have to bear the cost of 'double' stamp duty as there is a single transfer of land from Danjala to the purchaser, avoiding an intermediate transfer to Carlisle. If an intermediate transfer took place the resulting stamp duty would be passed on to the ultimate purchaser.
 - (d) As the transfer of title is effected prior to the commencement of the building services, stamp duty is payable only on the land value.
 - (e) As a consequence the entire development will be a superior quality community, and new house and land packages will be available to purchasers at more affordable prices for the above reasons as well as the fact that the developer will not be required to pass on the holding costs associated with funding turn key house construction.

4. Conclusion

- 4.1** For the reasons stated above, Danjala submits that the proposed conduct provides benefits to the public and will have no anti-competitive effect and therefore no public detriment.