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Reply to  
Direct Line  
E-mail

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13 February, 2006

Australia Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

Dear Sir

**Notification of Exclusive Dealing**  
**Our Client: Morvale Developments Pty Ltd**

We act on behalf of Morvale Developments Pty Ltd. We hereby **enclose** the following:-

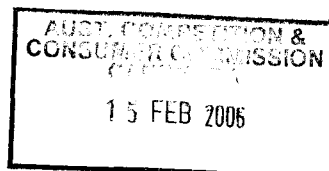
1. Notification in accordance with the section 93(1) of the *Trade Practices Act 1974*, concerning the proposed supply of land by our client at its Urban development site at Marian Queensland to purchases on the condition that they enter a building contract with 1 of 3 nominated construction firms for the building of housing on that land;
2. Supporting Submission; and
3. Cheque for \$100.00 in payment for the applicable filing fee.

We await your reply at your earliest convenience.

Yours faithfully  
**McKAYS**

Per: 

Enc3



**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. (a) Name of person giving notice:

Morvale Developments Pty Ltd (ACN 109 919 771) 222 Victoria Street Mackay,  
 Queensland 4740

(See Direction 2 on the back of this form)

(b) Short description of business carried on by that person:

The Morvale Group is a Mackay based group of companies involved in the development of residential, retail and industrial property as well as having their own real estate agency and financial services branches. The Morvale Group consists of the following related entities:

- JAAM Holdings Pty Ltd (ACN 076 624 710)
- JTM (Qld) Pty Ltd (ACN 104 530 118)
- Wespine Pty Ltd (ACN 105 262 673)
- Platinum Earthworks & Constructions Pty Ltd (ACN 113 033 533)
- Morvale Developments Pty Ltd (ACN 109 919 771)
- Platinum Realty (Qld) Pty Ltd (ACN 113 033 908)
- Currency Create Pty Ltd (ACN 114 895 804)
- Morton (Qld) No 1 Pty Ltd (ACN 116 962 497)
- Morvale Holdings Pty Ltd (ACN 117 398 124)
- Skanwood Pty Ltd (ACN 116 980 771)
- Morvale Land Pty Ltd (ACN 117 398 651)
- Morton (Qld) No 3 Pty Ltd (ACN 116 963 163)
- Morton (Qld) No 2 Pty Ltd (ACN 116 962 862)
- Glenrowan Land Pty Ltd (ACN 117 398 642)
- DTKM Pty Ltd (ACN 117 447 846)
- Precision Earth Moving Repairs (ABN 39 076 624 710)
- Morvale Financial Services (ABN 76 114 895 804)
- Precision Auto Electrics (NSW K3572006)
- Precision Auto Electrics (Vic 1133398G)

- Precision Auto Electrics (Qld BN18606532)
- Precision Auto Electrics (WA 1257122)
- We Care Day Care (Qld BN19291188)
- Platinum Plant Hire (Qld BN19609577)
- Morvale Consultancy (Qld BN19629813)

Current projects of the Morvale Group include the development of residential land at Marian, residential land at Walkerston, commercial industrial land at Paget and the proposed development of commercial and residential land within Mackay.

(c) Address in Australia for service of documents on that person:

C/- McKays Solicitors 34 Wood Street, Mackay Qld 4740 reference Kelly Parker

2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relate:

Subdivided residential properties in the subdivision known as Orchid Valley in Marian Qld

(b) Description of the conduct or proposed conduct:

requiring purchasers of land at Morvale's subdivision known as Orchid Valley at Marian to enter into building contracts with one of three nominated constructions firms for the building of housing on the land.

(See Direction 4 on the back of this Form)

3. (a) Class or classes of persons to which the conduct relates:

Actual and potential buyers of land at Orchid Valley Marian

(b) Number of those persons—

(i) At present time the conduct will relate to:

approximately 79 residential blocks of land which will be offered by way of a two stage development at Orchid Valley, Marian

(ii) Estimated within the next year:

as above

(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

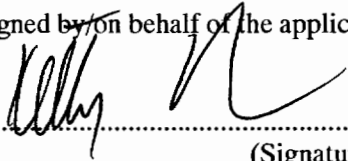
Not applicable

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

Mrs Kelly Parker  
Associate  
McKays Solicitors  
34 Wood Street  
MACKAY QLD 4740

Dated 13/7/2006

Signed by on behalf of the applicant giving notice

  
.....  
(Signature)

Mrs Kelly Parker  
Associate  
McKays Solicitors  
34 Wood Street  
MACKAY QLD 4740

#### 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.

Morvale Developments Pty Ltd (ACN 109 919 771)  
Submission to the Australian Competition and Consumer Commission regarding exclusive  
dealing notification.

1. Morvale developments Pty Ltd ACN 109 919 771 (Developer) is a company incorporated in the state of Queensland.
2. The developer is the registered owner of two lots located on Kennys Road Marian in Queensland, namely lot 3 on RP 702159 and lot 3 on RP 702160.
3. The developer proposes to subdivide lots into a total of 79 residential lots and the sub-development is known as Orchid Valley. The proposed subdivision will occur by way of two stages, with the first stage comprising 44 lots and the second stage comprising 35 lots.
4. The Land Sales Act 1994 (QLD) allows a developer to stage its developments and affect sales of allotments created under that act, or completed improvements, being lots and dwellings, as demand allows.
5. The Orchid Valley development has a target consumer of first home owners. Due to the substantial increase of cost of purchasing or already established houses or units, it is extremely difficult for a first home owner to purchase "The Australian Dream". The developer has a number of development projects but this particular project has been focused on allowing first home owners the opportunity to purchase property at an affordable price.
6. It is a common trend for subsequent stages in land developments to increase in value and to avoid the first home owners being cut out of the market due to the anticipated rise in value of the land within the subdivision, the developer proposes to utilise the services of builders who are able to construct houses quickly and efficiently and who will do so at the same price regardless of the stage of the subdivision of the land. The developer is using their best efforts to avoid the cost in land increasing.
7. The developer completed a residential development in 2005 and saw the average lot price increase by approximately \$20,000-\$25,000 plus. This was solely due to speculators and builders purchasing the lots on release and immediately re listing them at the higher price, this led to a rapid increase in land price in the development, and pushed the lots above the reach of the first home owners. The developer has released the lots in Orchid Valley generally at a sale price below that of current 're-sales' in the original development, and worked with builders that would be interested in construction only, rather than those that sought to speculate on the land and continue to force the price up.
8. In the circumstances where a purchaser elects to avail itself of the land purchase, there will be a condition of its contract that it enters into a building contract with a third party builder to complete any improvements on the allotment. The developer approached a majority if not all, builders within the Marian and Mackay region in relation to providing building services to proposed purchasers of Orchid Valley. Three builders expressed an interest in taking part in the Orchid Valley subdivision

and between the three proposed builders, there are literally hundreds of dwelling designs available to a purchaser to construct on the property. The majority if not all builders within the region were given the opportunity to take part in this project.

9. Due to the variation of the method of erecting improvements utilizing a third party, and requiring a purchaser of the land to the contract with that party to erect improvements on the land, that conduct may breach section 47(6) of the Trade Practices Act, being conduct commonly known as third line forcing.
10. The developer believes that the benefit arising from the project being completed by way of one of three nominated builders for each development allows for a packaged arrangement for house and land and will have no impact on the competition of choice in the market.
11. The public has the option of purchasing other land within the Marian district and surrounding areas that does not require for the Buyer to enter into a building Contract with any particular builders. Orchid Valley is a rather small development project compared to the other land available for purchase within the region. The public advantage of providing quality affordable land and housing packages to first home owners greatly exceeds any proposed disadvantage to the public in restricting them to using one of three builders of purchasing at Orchid Valley.
12. The developer's intent throughout has been to provide affordable, quality housing in an area where the mining and resources boom has forced most housing out of reach for first home owners. This marketing and pricing strategy has been aimed at meeting this need, with a goal to provide quality four bedroom homes in a range starting at \$300,000. This is not available elsewhere in the Mackay market.
13. The developer does not hold the only available land. There is other land of similar size and 'release' pricing available in the immediate area. It has minimal covenant and is available for speculators/builders to purchase now.
14. It is submitted that no detriment is likely to result from the conduct.

  
13. 7. 06

- Kelly Parker, Solicitor for  
the Applicant