

*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:

Daws & Son Pty Ltd (ACN 008 749 942); and N93193
 Devoncourt Pty Ltd (ACN 008 857 092) N93194
- (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/- Jason Wallis
 Wallis Property Co Pty Ltd
 Suite 10 56 Kings Park Rd
 West Perth WA 6005
2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

Land sales in the Lakeside development.
- (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 Lakeside.
- (b) Number of those persons:
 - (i) At the present time:

Nil.
 - (ii) Estimated within the next year:

5.



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

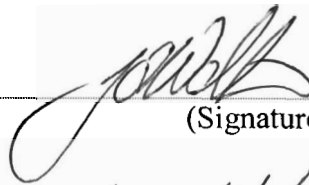
Not applicable.

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

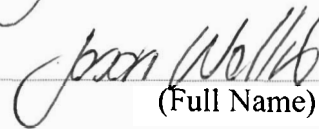
Jason Wallis
Wallis Property Co Pty Ltd
Suite 10 56 Kings Park Rd
West Perth WA 6005

DATED **February 2007**

SIGNED by/on behalf of the applicant



(Signature)



(Full Name)

(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

Daws & Son Pty Ltd and Devoncourt Pty Ltd (the **Owners**) are the landowners of residential land in Western Australia situated in Canning Vale Western Australia (**Land**).

2. The Owners are developing the Land by way of a development agreement with Bletchley Pty Ltd. The development is known as Bletchley Park.
3. Bletchley Pty Ltd has entered a project management agreement with Wallis Consulting & Development Pty Ltd. Wallis Consulting & Development Pty Ltd is the project manager for the development and sale of lots in Bletchley Park development and reports to Bletchley Pty Ltd. For the purposes of these submissions Bletchley Pty Ltd and Wallis Consulting & Development Pty Ltd are described as the developer (**Developer**).
4. Wallis Property Co Pty Ltd will be appointed as the real estate agent to sell the lots in Bletchley Park.
5. The Bletchley Park development is a residential subdivision of approximately 150 Hectares comprising 1600 home sites in Southern River in the Southern suburbs of Perth.
6. Within Bletchley Park the Developer is developing a special precinct site of five individual dwellings to be known as Lakeside. Lakeside forms part of the larger development of Bletchley Park
7. The Canning Vale/Southern River corridor is an established residential area located 17 km south of Perth. Bletchley Park is generally bounded by Ranford Road, Southern River Road and Holmes Street.
8. Bletchley Park comprises of approximately 1600 lots. Lots are being released in stages of approximately 50 lots. Since its launch in July 2006, six stages have been constructed and released. As of 23 October 2007, 240 lots have been sold. The lot sizes in the greater Bletchley Park range from 320m² lots to lots of 869m².
9. The past and future sale agreements for lots in Bletchley Park and Lakeside are and will be between the Owners and the purchasers of each lot.
10. Lakeside consists of five lots of approximately 600m² to 869m² home sites with an average home site of 660 m². Lakeside is intended to create an environment that provides:
 - (a) individual designed housing choices for a unique and sustainable living to a wide demographic of a population including empty nesters, families and small business owners seeking up market housing;
 - (b) to provide chic contemporary design in a uniform environment, with a consistent high standard of facade of homes and quality of landscaping,

designated pedestrian walkways including access to the adjacent park;
and

- (c) will be subject to a Detailed Area Plan to be submitted to the City of Gosnells which will introduce restrictions on the home design to ensure consistency with the site being adjacent to a parkland located at the main entry to Bletchley Park.
11. It is intended that the housing at Lakeside will broaden the social base of Bletchley Park providing an up market range of dwellings in contrast to the dwellings built on the larger blocks. Bletchley Park is part of an expanding development in the southern Canning Vale area which has excellent access to any part of Perth via the Tonkin Highway, Roe Highway, South Street and Kwinana Freeway. This proximity will support the higher density of living proposed at Lakeside.
12. Co-ordination between the Developer, the Owners and the builder in the construction of homes at Lakeside is required to comply with the Detailed Area Plan to be submitted with the City of Gosnells and to ensure that the development at Lakeside results in a functional and consistent development. This is considered essential as the homesites are adjacent to the main feature lake and Public Open Space. This location raises a number of design issues as follows:
- (a) Security – As the homes will have park land adjacent to the rear boundary the internal design and layout will need careful consideration as to the location of living areas and doors and windows.
 - (b) Passive surveillance - The designs need to be compatible with the City of Gosnells Safer Cities policy. The Safer Cities policy specifies the need to achieve good passive surveillance of public open space areas where housing is located near to and adjacent to parks.
 - (c) Privacy – The Residential Design Codes limit the extent to which homes can overlook neighbouring properties to ensure adequate levels of privacy. The Codes present significant design challenges particularly on lots which are to accommodate 2 storey dwellings.
 - (d) Double façade – Due to their location on the lake, the homes are required to address both the primary street and the lake. The homes are very visible from the lake and park and special consideration of the façade treatment is required.
13. Further, Lakeside is situated at the entrance to Bletchley Park and it is considered essential that the Developers have an element of control over the style and nature of the development to ensure complimentary, consistent and orderly development of dwellings. The proposed development at Lakeside will be subject to Detailed Area Plans which are in the process of being finalised. These plans will be submitted to the City of Gosnells and will specify restrictions on the style and specification of any building to be constructed.

14. In order that the design outcomes mentioned for the development of Lakeside can be achieved it is proposed that the five lots be offered for sale subject to the purchasers using the builder nominated by the Developer. Subject to approval under the *Trade Practices Act 1974* it is proposed that the Developers will enter an agreement with Buildwise (**the Builder**) on the basis that the five lots in Lakeside will be sold on the condition that the purchaser enters into a building contract with the Builder for construction of a dwelling that complies with the Detailed Area Plan.
15. Prospective purchasers will be aware of the limitations on the dwellings, set back and boundaries before purchasing a lot in Lakeside.
16. The land at Lakeside will be marketed by the Developer as house and land packages.
17. The proposed contracts for the sale of land in Lakeside have not yet been drafted It is proposed to include the term for the contract of sale to the effect detailed in paragraph 13 above.
18. It is considered that 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 southern suburbs in Perth in that:
 - (a) there is an adequate supply of land in the Bletchley Park and through a number of developers in the surrounding areas giving potential purchasers of residential land a range of alternative land choices;
 - (b) there are only five lots within Lakeside. There are approximately 1600 lots in the Bletchley Park Development remaining which will not have the same restrictions as Lakeside. Accordingly, there is an adequate supply of other land for purchase on an unrestricted basis;
 - (c) the proposed house and land contracts will provide a public benefit as the homes that are constructed will assist in achieving the overall desired market position of the Bletchley Park estate by maintaining a very high visual impact from the high quality of house and façade as people enter the main entrance of Bletchley Park;
 - (d) the co-ordination between the Owners, the Developer and the Builder may assist in reducing the time taken for completion of the dwellings and disputes over restrictions than would otherwise be the case through the Detailed Area Plans as the Builder will be familiar with all restrictions that exist and will be able to use trades to carry out work on more than one dwelling at a time;
 - (e) there will be public benefit by reason that the co-ordination is necessary to enable the consistency of the quality of dwellings and designs in Lakeside to proceed and achieve a design environment to attract a different type of purchaser that may not be attracted to other land in the area.

19. Homes will be finished in a consistent manner with a high visual amenity of the surrounding area. This consistency will enable the fullest utilisation of the surrounding parkland. It is expected that the consistency in the standard of the homes will assist in a higher retention of value of the homes within Lakeside.
20. On the basis on the above it is submitted that the public benefits flowing from the proposed arrangement between the Owners and the Builder will substantially outweigh any public detriment that the proposed arrangements may cause.