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17 October 2008-10-17

General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear Sir/Madam

**Re: Notification of Exclusive Dealing
North North Melbourne Pty Ltd**

We act for North North Melbourne Pty Ltd (**NNM**).

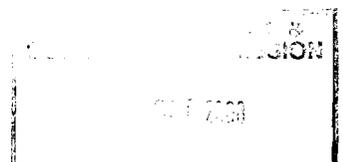
On behalf of the NNM we enclose:

- Form G – Notification of Exclusive Dealing; and
- Cheque for the applicable lodging fee of \$100

We would be grateful if you could confirm receipt. Please contact Simon Tan (03 8626 9090) if you have any queries or comments.

Yours faithfully
Tan Partners

Simon Tan



Form G

Commonwealth of Australia
Trade Practices Act 1974 — subsection 93 (1)

NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

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

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of person giving notice:
(Refer to direction 2)

N93628

North North Melbourne Pty Ltd (ACN 103 762 563) of Level 10, 650 Chapel Street, South Yarra, 3141

- (b) Short description of business carried on by that person:
(Refer to direction 3)

North North Melbourne Pty Ltd is a subsidiary of R. Corporation Pty Ltd. R. Corporation Pty Ltd is a private property developer specialising in developing or re-positioning large scale, mixed use, medium and high density residential, commercial and retail projects. To date, R. Corporation Pty Ltd has conceptualised and constructed over 20 landmark buildings with a total value of \$600 million.

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

Level 10, 650 Chapel Street, South Yarra, 3141

2. Notified arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

Sale of affordable house and land packages (77 in total)

- (b) Description of the conduct or proposed conduct:
(Refer to direction 4)

The applicant intends to sell 77 parcels of land to purchasers with a contract condition being that the purchaser must also enter into a building contract with a nominated builder under which that builder builds a

townhouse on the parcel of land. The nominated builder in effect has exclusivity to build the townhouses on each parcel of land being sold by the applicant.

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

- (a) Class or classes of persons to which the conduct relates:
(Refer to direction 5)

Purchasers of the properties described in point 2. It is anticipated that purchasers will be a mix of owner-occupiers and investors who will rent the townhouses once they are built.

- (b) Number of those persons:

- (i) At present time:

There are none affected by the proposed conduct as at the date of this notice.

- (ii) Estimated within the next year:
(Refer to direction 6)

Up to 77.

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

Not applicable.

4. Public benefit claims

- (a) Arguments in support of notification:
(Refer to direction 7)

The applicant believes the conduct will benefit the public in the following manner:

- the applicant is in the process of a competitive tendering process for the works with three different building groups namely, Glenvill Homes, Madisson Projects (a subsidiary of Simmonds Homes) and Comdain Homes;*
- the building contract will be on a fixed cost basis for each dwelling to be constructed on each land parcel. The purchaser will also have the ability to upgrade to various options to suit individual requirements. The bargaining power gained through the competitive tendering process to procure the nominated builder together with a "volume arrangement" will result in a building contract price that would be lower than that which would be available to a purchaser negotiating by itself;*

- *if townhouses were built individually, the cost increase is estimated to be in excess of 12% per dwelling. Every dwelling would also reduce in size by an average of approximately 8 square metres due to inclusion of separate party walls rather than a single party wall when built all at once. This has allowed the applicant to offer further cost savings and efficiencies for the project;*
- *the entire development will be developed in a consistent and co-ordinated manner giving the estate a greater feeling of community and ensuring that the development does not remain a building site for longer than is necessary therefore reducing disruption to the surrounding community and purchasers who are already occupying completed townhouses and safety to occupiers;*
- *the fact that there is only one builder on site will greatly reduce occupational health and safety risk which would have occurred with several builders contemporaneously on site, none of whom would have any obligation to co-ordinate their activities;*
- *the conduct will foster business efficiency; and*
- *competitors of the applicant and the nominated builder may consider forming similar arrangements in order to attract purchasers to their developments. These arrangements would facilitate quality developments at reduced prices therefore encouraging competition in the market.*

(b) Facts and evidence relied upon in support of these claims:

If townhouses were built individually the cost increase has been quantified to be in excess of 12% per dwelling. This information has been provided by the builders who have been invited to tender for the project.

Otherwise please see our responses directly above.

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2(a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions): *(Refer to direction 8)*

The relevant market likely to be affected by the proposed arrangement is the market for the sale of residential land and/or new residential dwellings in the Melbourne area. Suppliers in this market include:

- *nationwide large developers and builders;*
- *local developers and builders; and*
- *medium sized builders.*

Please visit the section entitled “New Land Estates” on real estate website – www.realestate.com.au for new house and land packages located in the Melbourne area.

6. Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:

(Refer to direction 9)

- the purchaser is denied the opportunity/flexibility of sourcing alternative services for the construction of a dwelling on the relevant parcel of land;*
- prevents purchasers from buying land and not building a dwelling on it (ie. keeping it as vacant land)*

The applicant considers the above public detriment to be limited as:

- the development consists of a relatively small number parcels of land, therefore its impact to the relevant market is limited;*
- it is unlikely that many purchasers would wish to buy the land and retain it as vacant land given its geographic location;*
- there are a number of alternative developments in the market from which purchasers can choose to purchase land without having to engage the nominated builder; and*
- the applicant is conducting a competitive process involving other builders in the industry before selecting the nominated builder.*

- (b) Facts and evidence relevant to these detriments:

- all purchasers of land will be required to enter into a building contract with the nominated builder as a condition of the land sale; and*
- the building contract will not allow the purchasers to unilaterally terminate the building contract.*

Otherwise please see responses directly above.

7. Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Tan Partners

Level 29, 55 Collins Street, Melbourne, Victoria

Attention: Simon Tan

Email: tan@tanpartners.com.au

Phone: 03 8626 9090/0418 573 800

Dated... 16/10/08

Signed by/on behalf of the applicant

.....
(Signature)

Andrew Mitchell Rettig
(Full Name)

North North Melbourne Pty Ltd
(Organisation)

Sole Director and Company Secretary
(Position in Organisation)

DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

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 applicant.

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. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 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. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.