

28 JUL 2008

PERTH

DOC ID: /

Australian Competition and Consumer
Commission
3rd Floor
East Point Plaza
233 Adelaide Terrace
PERTH WA 6000

28 July 2008
Matter 80988702
By courier

Dear Sir

FILE No:

DOC:

MARS/PRISM:

Notification for Third line forcing

We act on behalf of Multiplex Energy Pty Ltd, Brookfield Multiplex Limited (formerly known as Multiplex Limited) and Brookfield Multiplex Vale Landowner Pty Ltd (**Multiplex**).

Under notifications N91618 and N91619, immunity is conferred upon Multiplex Energy Pty Ltd and Brookfield Multiplex Limited for third line forcing in respect of the offer of particular residential lots for sale in the Vale development in the Swan Valley region in Perth, Western Australia on condition that consumers enter into a contract with a builder nominated by them to construct a house on the lot.

Subsequent to notifications N91618 and N91619, Multiplex have decided to involve Brookfield Multiplex Vale Landowner Pty Ltd (**BMVL**) in relation to the same development and therefore, the companies wish to lodge a notification to cover BMVL's involvement in the said conduct. Accordingly, we enclose a completed Form G notification in respect of proposed conduct by Multiplex which may raise issues under the *Trade Practices Act 1974* (part of which is subject to a claim of confidentiality) together with a version of the form for the public register and a cheque in the sum of \$300, being the lodgement fee.

1 Background and the 'Vale' residential development

Brookfield Multiplex Developments Pty Ltd (formerly known as Multiplex Developments Pty Ltd) is the project manager for land owned by Multiplex. Brookfield Multiplex Developments Pty Ltd is developing a residential development known as 'Vale' in the Swan Valley region in Perth, Western Australia (the **Vale development**). The Vale development comprises of approximately 4500 lots in total.

The Vale development has been carefully designed to attract discerning prospective purchasers, with an emphasis on quality design and lifestyle benefits. Multiplex have prepared design guidelines and covenants applicable to every block to ensure residential properties will meet a high standard for quality. The Vale development will also incorporate public and private education facilities, retail shopping areas, lifestyle and health services, office space, sports facilities, parkland and lakes.

Multiplex proposes to offer for sale residential lots in the Vale development on condition that purchasers will enter into a contract with a builder nominated by Multiplex to construct a house on the lots.

Doc 6.004110803.12

2 Benefits of the 'house and land' packages

Multiplex operates in highly competitive residential property markets. Multiplex believes the overall attractiveness and competitiveness of the Vale development will be enhanced by offering certain lots as 'house and land' packages. Anticipated benefits and efficiencies likely to result from the arrangement, when compared to a situation where no land in the Vale development is offered as a 'house and land' package, include:

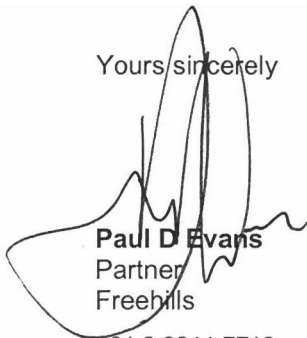
- (a) increased choice for purchasers. Multiplex believes the 'house and land' package option will be attractive to some purchasers. It has the advantage of saving the purchaser time and cost in searching for an appropriate builder and gives them confidence that compliance with the design guidelines will be achieved;
- (b) Multiplex will be better able to ensure the quality of the building workmanship on these lots through an ongoing relationship with the nominated builder. A consistent high quality of workmanship benefits not only the individual purchasers, but the entire Vale development;
- (c) the nominated builder will be able to take advantage of volume discounts on materials and will be able to reduce overall labour costs through the consolidation of work. The relevant markets are highly competitive and, to some extent, reduced building costs are likely to be passed on to consumers;
- (d) the nominated builder will have a detailed knowledge of the building guidelines and other requirements specific to the Vale development. This will result in additional efficiencies and will reduce the possibility of disputes arising regarding compliance with design guidelines and/or covenants.

The combination of increased choice, improved quality, reduced costs and increased efficiency for the builder and purchasers achieved by the arrangement will enhance the overall attractiveness and competitiveness of the Vale development. The arrangement is designed to give consumers an option that they may find attractive at a competitive price. We submit that the arrangement will result in no anti-competitive detriment to individual purchasers in the Vale development or to purchasers of residential property more generally.

As stated above, immunity has been conferred, in relation to the above conduct, on Multiplex Energy Pty Ltd and Brookfield Multiplex Limited. We respectfully submit that this notification, which extends that immunity to cover all three Multiplex companies should be permitted to stand on the basis that the conduct gives rise to public benefits and that it would not result in any anti-competitive detriment.

Please note that the information in 3(c) of Form G, being the identity and details of persons affected are provided on a confidential basis as they include personal information of individual lot purchasers. Accordingly, Multiplex requests that this information be excluded from the public register.

Yours sincerely



Paul D Evans
Partner
Freehills

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pauld.evans@freehills.com

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)

Multiplex Energy Pty Ltd ACN 009 449 754

Brookfield Multiplex Limited ACN 008 687 063 (formerly known as
Multiplex Limited)

Brookfield Multiplex Vale Landowner Pty Ltd ACN 11 481 6018

Brookfield Multiplex Developments Pty Ltd

(together referred to as **Multiplex** below)

N93523

N93524

N93525

N93526

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

Property development. Brookfield Multiplex Developments Pty Ltd (formerly known as Multiplex Developments Pty Ltd) is the project manager for land owned by Multiplex. Brookfield Multiplex Developments Pty Ltd is developing a residential development known as 'Vale' in the Swan Valley region in Perth, Western Australia (the **Vale development**). The Vale development comprises of approximately 4500 lots in total.

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

c/- Paul D Evans

Partner

Freehills

250 St Georges Terrace

Perth WA 6000

2. Notified arrangement

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

Sale of 'house and land' packages in the Vale development. This includes:

- (i) the supply of land;
- (ii) the supply of building and related services.

The Vale development has been carefully designed to attract discerning prospective purchasers, with an emphasis on quality design and lifestyle benefits. Multiplex have prepared design guidelines and covenants applicable to every block to ensure residential properties will meet a high standard for quality. The Vale development will also incorporate public and private education facilities, retail shopping areas, lifestyle and health services, office space, sports facilities, parkland and lakes.

(b) Description of the conduct or proposed conduct:

Multiplex proposes to offer for sale residential lots in the Vale development on condition that purchasers will enter into a contract with a builder nominated by Multiplex to construct a house on the lots.

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:

Persons wishing to acquire 'house and land' packages in the Vale development.

Builders nominated by Multiplex. At the present time, nominated builders include:

- Ross North Homes
- National Homes
- West Australian Housing Centre
- Redink Homes
- Broadway homes (Double Storey)
- Blue Print Homes
- Scott Park Homes
- Affordable Living
- Commodore Homes
- Celebration Homes
- Content Living
- Summit Homes
- Collier Homes
- Easy Living Homes
- Gemmill Homes
- Ventura Homes
- Highbury Homes

The Vale development will comprise approximately 4500 lots in total. These lots will be sold in stages. However, not every lot in the Vale development will be sold as a 'house and land' package.

(b) Number of those persons:

(i) At present time:

6

(ii) Estimated within the next year:

60 contracts

Restriction of Publication of this Part Claimed

**EXCLUDED FROM
PUBLIC REGISTER**

4. Public benefit claims

Multiplex operates in highly competitive residential property markets. Multiplex believes the overall attractiveness and competitiveness of the Vale development will be enhanced by offering certain lots as 'house and land' packages. Anticipated benefits and efficiencies likely to result from the arrangement, when compared to a situation where no land in the Vale development is offered as a 'house and land' package, include:

- (a) increased choice for purchasers. Multiplex believes the 'house and land' package option will be attractive to some purchasers. It has the advantage of saving the purchaser time and cost in searching for an appropriate builder and gives them confidence that compliance with the design guidelines will be achieved;
- (b) Multiplex will be better able to ensure the quality of the building workmanship on these lots through an ongoing relationship with the nominated builder. A consistent high quality of workmanship benefits not only the individual purchasers, but the entire Vale development;

- (c) the nominated builder will be able to take advantage of volume discounts on materials and will be able to reduce overall labour costs through the consolidation of work. The relevant markets are highly competitive and, to some extent, reduced building costs are likely to be passed on to consumers;
- (d) the nominated builder will have a detailed knowledge of the building guidelines and other requirements specific to the Vale development. This will result in additional efficiencies and will reduce the possibility of disputes arising regarding compliance with design guidelines and/or covenants.

The combination of increased choice, improved quality, reduced costs and increased efficiency for the builder and purchasers achieved by the arrangement will enhance the overall attractiveness and competitiveness of the Vale development. The arrangement is designed to give consumers an option that they may find attractive at a competitive price. We submit that the arrangement will result in no anti-competitive detriment to individual purchasers in the Vale development or to purchasers of residential property more generally.

7. Further information

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

Paul D Evans
 Partner
 Freehills
 250 St Georges Terrace
 Perth WA 6000

Dated 25 July 2008

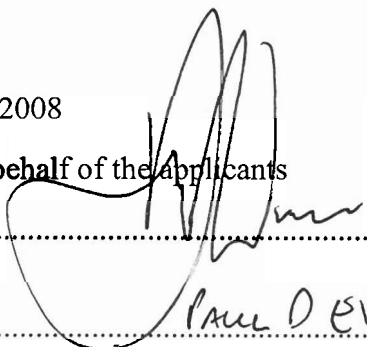
Signed by/on behalf of the applicants

.....
 (Signature)

.....
 (Full Name)

.....
 (Organisation)

.....
 (Position in Organisation)



Paul D EVANS
 Freehills
 Partner

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.