

24 September 2008

Australian Competition and
Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

FILE No:
DOC:
MARS/PRISM:

Dear Sir/Madam

NOTIFICATION OF EXCLUSIVE DEALING – YARAN PTY LTD (ACN 074 686 221)

Yaran Pty Ltd as trustee for the Yaran Trust (98%) and Vale Trust (1%) and Shahin Trust (1%) (**Yaran**) is in the business of developing and selling land. Yaran is the owner of land at 4 Eaton Avenue, Mount Barker, Western Australia (**Eaton Subdivision**). Pursuant to Survey-Strata Plan 53595 the Land will be subdivided by Yaran into 18 survey-strata lots which will be sold for residential usage.


As part of the house and land packages being offered to buyers of the 18 lots the purchaser will acquire land by way of contract for sale from Yaran on the condition that the purchaser also enters into a contract for the supply of building services directly from a builder, to be nominated by Yaran.

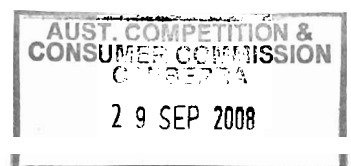
We therefore **enclose** Form G – Notification of Exclusive Dealing pursuant to the development at 4 Eaton Avenue, Mount Barker by Yaran (**Notice**).

We confirm the correct legal entity giving the Notice is Yaran Pty Ltd (ACN 074 686 221) as Trustee for the Yaran Trust (98%) and Yaran Pty Ltd (ACN 074 686 221) as Trustee for the Vale Trust (1%) and Yaran Pty Ltd (ACN 074 686 221) as Trustee for the Shahin Trust (1%).

If you have any further queries regarding the Notice please do not hesitate to contact our office or our solicitors, Wojtowicz Kelly Legal on 9460 5000.

Yours faithfully


Faryar Gorjy
For and on behalf of
Yaran PTY LTD



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:

Yaran Pty Ltd (ACN 074 686 221) (**Yaran**) N93596

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

Yaran Pty Ltd as trustee for the Yaran Trust (98%) and Vale Trust (1%) and Shahin Trust (1%) (**Yaran**) is in the business of developing and selling land. Yaran Pty Ltd is the owner of land at 4 Eaton Avenue, Mount Barker Western Australia. Pursuant to Survey-Strata Plan 53595 the land will be subdivided by Yaran into 18 survey-strata lots (**Eaton Subdivision**) which will be sold for residential usage.

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

Yaran Pty Ltd
20 Tribute Street
SHELLEY WA 6148

2. Notified arrangement

- (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 18 survey-strata lots in the Eaton Subdivision in association with house and land packages being offered by Yaran.

- (b) Description of the conduct or proposed conduct:

Yaran proposes to offer lots in Survey-Strata Plan 53595 to the public for sale as part of a house and land package. The purchaser will acquire land by way of contract for sale from Yaran on the condition that the purchaser enters into a contract for the supply of building services directly from a builder, to be nominated by Yaran (**Builder**).

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:

The conduct refers to potential and actual house and land purchasers, purchasing land from Yaran in the Eaton subdivision and building services from the Builder.

- (b) Number of those persons:

- (i) At present time:

There are no actual purchasers.

- (ii) Estimated within the next year:

(A) Minimum of 18 actual purchasers.

(B) Yaran is unable to advise on a maximum number of potential purchasers.

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

Yaran is unable to provide this information at this time as potential or actual purchasers have not yet been identified.

4. Public benefit claims

- (a) Arguments in support of notification:

See attached Submissions

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):

The market in which the proposed conduct relates to is the residential real estate market in Mount Barker, Western Australia.

6. Public detriments

See attached Submissions

7. Further information

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

Miss Kate Fiddick
Operations
Yaran Pty Ltd
20 Tribute St, Shelley, WA, 6148
Tel: 08 9354 1917

Dated 25/09/08

Signed by/on behalf of the applicant

Faryar Gorji
(Signature)

Faryar Gorji
(Full Name)

Yaran Pty Ltd
(Organisation)

Director
(Position in Organisation)

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

1. Background

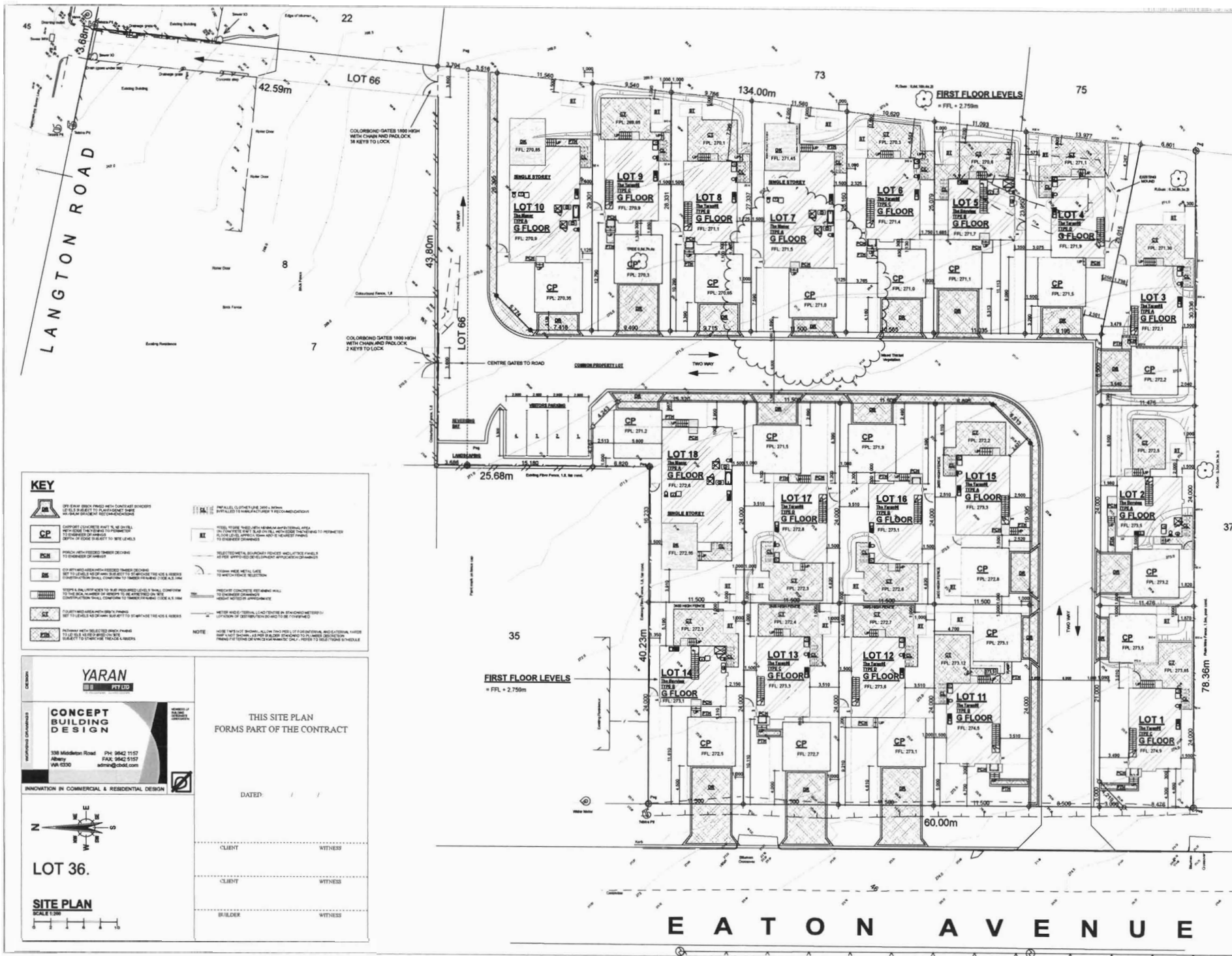
- 1.1 Yaran Pty Ltd (ACN 074 686 221) as trustee for the Yaran Trust (98%) and Vale Trust (1%) and Shahin Trust (1%) (**Yaran**) is the owner of land at 4 Eaton Avenue, Mount Barker, Western Australia.
- 1.2 Yaran is in the business of developing and selling house and land packages.
- 1.3 The land known as 4 Eaton Avenue, Mount Barker will be subdivided by Survey-Strata Plan 53595 into 18 survey-strata lots for residential usage.
- 1.4 Yaran intends to develop and sell the 18 lots created by Survey-Strata Plan 53595 to the public as house and land packages.
- 1.5 Under the house and land package, potential purchasers will be required to enter into the following contracts:
 - (1) Contract for the sale of land from Yaran; and
 - (2) Building contract with the Builder for the supply of building services.
- 1.5.1 The sale of the land by Yaran to the potential purchaser will be conditional upon the purchaser entering into a contract with the Builder for the supply of building services.
- 1.6 The subdivision of the land under Survey-Strata Plan 53595 will be completed soon and Yaran propose to make offers to the public as soon as possible.

2. Public Benefit

- 2.1 The conduct described in this Form is exclusive within sections 47(6) and 47(7) of the Trade Practices Act 1974 (Cth). Yaran submits there is no likely detriment to the public resulting from that conduct.
- 2.1.2 In the alternative, submits the benefit to the public resulting from the conduct outweighs any detriment to the public.
- 2.2 The proposed conduct does not substantially lessen competition in the relevant market as the Eaton Avenue subdivision represents an extremely small proportion of residential real estate available for development and sale in Mount Barker, Western Australia.
- 2.3 The tight design guidelines of the Eaton Avenue subdivision necessitates that all lots are required to be built by one builder concurrently. Please find attached plans and illustrations for the proposed development at Eaton Avenue.
- 2.4 Common areas and common services need to be constructed before units can be occupied, thereby necessitating the construction of all lots by one builder. Please find attached a copy of Survey-Strata Plan 53595. On site, it

would be impractical to engage more than one Builder to effect construction of these plans.

- 2.5 Using one Builder to construct all lots in the Eaton Avenue subdivision will mean purchasers have more certainty about:
- (a) the quality of construction;
 - (b) the symmetry of the development;
 - (c) development in accordance with the design guidelines and plans; and
 - (d) timing of completion of the development.
- 2.6 As there is a single transfer of the land prior to the commencement of the building services by the Builder, purchasers will only be required to pay stamp duty on the land value, representing a significant saving for the purchasers and making the overall house and land package being offered by Yaran more affordable.
- 2.7 As Yaran does not have to carry the cost of constructing the buildings, Yaran can sell its house and land packages at a price lower than if Yaran had to fund the construction of all of the buildings itself. As a consequence, the house and land packages will be available to purchasers at more affordable prices.
- 2.8 Yaran will obtain tender quotations from pre-qualified builders suitable for the development and the most efficient builder with the best quality will be selected for the development.
- 2.9 The total house and land package prices that are paid by purchasers are based on sworn valuations of the completed houses. The total price paid for the house and land package by purchasers is therefore not impacted by the particular builder selected nor influenced by the cost of construction as set by the builder.



CONCEPT BUILDING DESIGN
INNOVATION IN COMMERCIAL & RESIDENTIAL DESIGN

338 Middleton Road
Abney
WA 6230
www.cbdc.com.au

338 Middleton Road
Abney
WA 6230
www.cbdc.com.au

338 Middleton Road
Abney
WA 6230
www.cbdc.com.au

REV DESCRIPTION DATE

CLIENT YARAN PTY LTD

PROJECT LOT 36 EATON AVENUE MT BARKER

FILE PROPOSED 18 GROUPED DWELLINGS

DESIGNED BY YARAN PTY LTD
DRAWN / DATE AS AT 11/11/2011
SCALE AS SHOWN
CAD REF Eaton Ave Site Plan - MCDL-01
JOB NO C-1221-07
SHEET No SITEPLAN 1 of 1



UPPER FLOOR PLAN

1:400

Time	10:02 AM	Drawn	J. REYNOLDS	Project	PROPOSED GROUPED DWELLINGS (118)
Date	8/16/2007	Check		Sheet	
Notes	1:400 UPPER FLOOR PLAN				

Lot 36	AS SHOWN @ A3
EATON AVENUE	
MOUNT BARKER WA 6324	
DA- 3	

SURVEY-STRATA PLAN		ED/VER	AMENDMENT	BY	SIGNATURE	DATE
SHEET 1 OF 1 SHEETS		LIMITED IN DEPTH TO 609/6 METRES				
PLAN OF <div style="text-align: center;">LOT 100 ON DP</div> CERTIFICATE OF TITLE VOL. FOL. LOCAL GOVERNMENT <div style="text-align: center;">CITY OF ALBANY</div> INDEX PLAN <div style="text-align: center;">BJ27 (2) 38.08</div> FIELD BOOK SCALE <div style="text-align: center;">1 : 500 (A3)</div>						
NAME OF SCHEME <div style="text-align: center;">EATON AVENUE MOUNT BARKER</div>						
ADDRESS OF PARCEL <div style="text-align: center;">EATON AVENUE MOUNT BARKER, WA 6324</div>						
MANAGEMENT STATEMENT YES <input type="radio"/> NO <input type="radio"/>						
LODGED DATE FEE PAID ASSESS No.	CERTIFIED CORRECT COR. FILE IN ORDER FOR DEALINGS SUBJECT TO FOR REGISTRAR OF TITLES DATE					
APPLICATION DATE REGISTRAR OF TITLES SEAL						
WESTERN AUSTRALIAN PLANNING COMMISSION W.A.P.C. REF. Certificate of Approval of W.A.P.C. under Section 25B(2) of Strata Titles Act 1985 Delegated under S.16 P&O Act 2005 DATE						
<div style="clear: both;"></div> <div style="text-align: center;"> Landgate <small>Western Australian Land Information Authority</small> </div>		<div style="text-align: center;"> Scale 1:500 A3 </div>				
SURVEYOR'S CERTIFICATE - Reg 54 I, _____ hereby certify that this plan is accurate and is a correct representation of the - (a) survey, and/or (b) calculations from measurements, (delete if inapplicable) undertaken for the purposes of this plan and that it complies with the relevant written law(s) in relation to which it is lodged. LICENSED SURVEYOR DATE		<div style="text-align: right;"> JOHN KINNEAR AND ASSOCIATES Consulting Surveyors 234 STIRLING TERRACE PO BOX 293 ALBANY WA 6331 PHONE (08) 9842 1353 FAX (08) 9842 1570 JKA REF. 7829C </div>				













