



**Australian  
Competition &  
Consumer  
Commission**

Your Ref: KJS:090226 - NAM  
Our Ref: 41991, C2010/488  
Contact Officer: John Rouw  
Contact Number: (03) 9290 1402

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10 June 2010

Ken Sorrenson  
Everingham Solomons  
PO Box 524  
TAMWORTH NSW 2340

Dear Mr Sorrenson

**Third line forcing notification N94680 lodged by Marloelle Pty Ltd**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 13 May 2010. The notification and your letter of 1 June 2010 clarifying the scope of the notified conduct have been placed on the ACCC's public register.

Marloelle Pty Ltd proposes to supply blocks of land in the Windmill Hill Estate in Tamworth, New South Wales on conditions that would include a contractual provision to the effect that:

- The Purchaser must prior to settlement enter into a building contract with MW and LM Single Builders Pty Ltd ('the Builder') engaging the Builder to construct a residential dwelling on the land in accordance with plans and designs approved by the Vendor.
- If so required by the Vendor, the Purchaser must include in the form of transfer submitted to the Vendor for signature a covenant to the effect that no residential building work will be undertaken on the land the subject of this contract other than by or on behalf of the Builder.

Legal immunity conferred by the notification commenced on 27 May 2010.

By letter of 1 June 2010, you stated that Marloelle would narrow the scope of the proposed restriction so that it would apply for only a limited time after purchase of each block and would be confined to construction of a new residence rather than subsequent renovations or additions to that residence. You stated that that the proposed clause to be inserted into contracts for sale of residential lots would read:

The Purchaser must prior to settlement of this contract enter into a building contract with MW and LM Single Builders Pty Ltd...('the Builder') engaging the Builder to construct a residential dwelling on the land in accordance with the plans and designs approved by the Vendor. If so required by the Vendor, the Purchaser must include in the form of transfer submitted to the Vendor for signature a covenant to the effect that during the period

commencing on settlement of this contract and ending 10 years thereafter, no building work for the erection of a new residence will be undertaken on the land the subject of this contract other than by or on behalf of the Builder.

On the basis of the information that you have provided, it is not intended that further action be taken in this matter at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by the notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

This assessment has been made on the basis that Marloelle and MW and LM Single Builders will disclose all relevant terms and conditions to prospective customers.

A copy of this letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please contact John Rouw on (03) 9290 1402.

Yours sincerely



David Hatfield  
Acting General Manager  
Adjudication Branch