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Our Ref: RP

Your Ref:

24 June 2010

Ms Monica Bourke
Australian Competition & Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

By email <monica.bourke@accc.gov.au >

Dear Ms Bourke,

The Ranges Karratha - Third line forcing notification N93539 lodged by Greenvalley Asset Pty Ltd

We refer to our email of 17 May 2010 and our telephone discussion on 19 May 2010 in relation to the above notification and your request for us to provide a letter confirm the position as out lined in our email.

We confirm that:

1. Our client, Greenvalley Asset Pty Ltd, owns lot 1090 on plan 174830 being the whole of the land comprised in certificate of title volume 1991 folio 48 and known as lot 1090 Karratha Road, Karratha, Western Australia.
2. In 2008 Greenvalley was intending to develop a strata title short stay serviced apartment complex on the property to be known as "The Ranges Karratha" in accordance with a development approval from the Shire of Roebourne (the local government body).
3. The Shire of Roebourne required as a condition of the development approval for the 2008 development that buyers of strata lots agree to acquire property management services from the sole on-site property manager.
4. Greenvalley appealed to the WA State Administrative Tribunal against the Shire of Roebourne's condition and the matter was eventually resolved on the basis that Greenvalley apply to the ACCC for a third line forcing notification.
5. The 2008 development did not proceed and all signed sale contracts were terminated and the deposits returned to the buyers.
6. Greenvalley has now obtained a new development approval from the Shire of Roebourne for a slightly different survey-strata title development on the same property.
7. The 2008 development (which was described in the notification of exclusive dealing form G dated 7 August 2008) was for a four star strata title short stay serviced apartment complex to be known as "The Ranges Karratha" consisting of up to 148 accommodation lots, a manager's lot and improvements on common property.

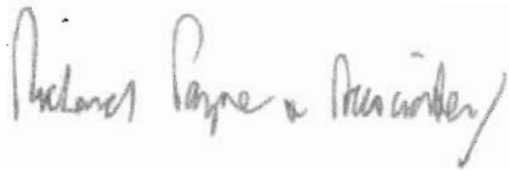
8. The strata title lots in the earlier development were to be fully serviced lots for short stay accommodation, the short stay restrictions being that in the first 5 years after the date of registration of the strata plan a person must not occupy a lot for a continuous period exceeding 12 months and thereafter a person must not occupy a lot for a period greater than 3 months in any 12 month period.
9. The new proposed development on the property it will be a survey-strata title serviced apartment complex to be also known as "The Ranges Karratha" comprising 108 survey-strata title lots, a manager's lot and improvements on the common property. 25% of the lots will be subject to short stay restrictions providing that a person must not occupy the lot for a period greater than 3 months in any 12 month period, but the remaining 75% of the lots will not have any short stay restriction.
10. The Shire of Roebourne has again made it a condition of the development approval that Greenvalley offer for sale lots in the complex on the condition that buyers agree to acquire property management services from a third party being the sole on-site property manager.
11. In our email of 17 May 2010 we expressed concern that the third line forcing notification N93539 may not apply in respect of the sale of lots in the proposed new complex because of the proposed changes and the fact that it is being built under a new development approval.
12. The selling of lots in the new development has not yet commenced and no sale contracts have been entered into.

In our telephone discussion you advised that the ACCC is of the view that the existing third line forcing notification (N93539) will apply in respect of the sale of lots in the new proposed complex because the new proposed development:

- is on the same property (lot 1090 Karratha Road, Karratha);
- is being undertaken by the same developer (Greenvalley);
- is a similar strata title development (a 108 survey-strata title apartment complex with a manager's lot and improvements on the common property);
- concerns the same condition imposed by the Shire of Roebourne (that buyers agree to acquire property management services from a third party being the sole on-site property manager); and
- concerns the same supply as previously notified (property management services from a third party on-site property manager).

In the circumstances, Greenvalley will proceed with the sale of lots in the proposed new complex on the basis that it is protected by the existing third line forcing notification (N93539). If you disagree with this view will you kindly promptly advise us, in which case Greenvalley will immediately make another application to the ACCC for a third line forcing notification.

Yours faithfully,
Richard Payne & Associates



cc The Directors
Greenvalley Asset Pty Ltd