



COOPER GRACE WARD

LAWYERS



Our Ref: LMD2:MRF 10089909

8 December 2010

Australian Competition & Consumer Commission
Level 24
400 George Street
BRISBANE QLD 4000

Level 21, 400 George Street
Brisbane 4000 Australia

GPO Box 834, Brisbane 4001

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BY DELIVERY

FILE No:
DOC:
MARS/PRISM:

Dear Sir/Madam

Exclusive Dealing Notifications Twin Peaks South Morang Pty Ltd ACN 117 056 229

We act on behalf of Twin Peaks South Morang Pty Ltd.

Please find **enclosed** two exclusive dealing notifications on behalf of our client, together with a cheque in the sum of \$200 in respect of your lodgement fees.

Please contact Leanne Doxey should you require further information.

Yours faithfully
COOPER GRACE WARD

Leanne Doxey
Senior Associate
T 61 7 3231 2941
F 61 7 3231 8941
E leanne.doxey@cgw.com.au

Marcus Ford
Partner

LMD210089909 3584783v1



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)

N95208 Twin Peaks South Morang Pty Ltd ACN 117 056 229

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

Company engaged in the development of land and associated activities.

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

PO Box 3278, Australia Fair, Southport, Queensland 4215

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 land by Twin Peaks South Morang Pty Ltd in association with houses to be constructed by a builder on a parcel of land located at Palisades Boulevard, Palisades Estates, South Morang, Victoria.

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

Twin Peaks South Morang Pty Ltd proposes to offer land to the public as part of a house and land package. The customer will acquire the land on the condition that building services are to be performed by a third party, Glenwill Pty Ltd ACN 007 034 451.

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)

The conduct relates to actual and potential house and land purchasers, purchasing land from Twin Peaks South Morang Pty Ltd and building services from Glenvill Pty Ltd.

- (b) Number of those persons:

- (i) At present time:

0

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

Maximum of 8.

Only 8 lots will be offered this way in Stage 5 of Palisades Estates.

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

It is not possible to provide this information at this time as the potential purchasers have not yet been identified.

4. Public benefit claims

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

Twin Peaks South Morang Pty Ltd wishes to sell 8 lots in Stage 5 of their land subdivision in South Morang, Victoria and construct dwellings on the lots built by a third party Glenvill Pty Ltd.

All dwellings have been preplanned as part of an integrated terrace product offering.

Purchasers will be required to enter into two separate contracts: a building agreement with Glenvill Pty Ltd and a contract for the sale of land with Twin Peaks South Morang Pty Ltd.

The contract for the sale of the land will be conditional on the purchaser entering into the building contract with Glenvill Pty Ltd.

The conduct described in this Form G is exclusive dealing within sections 47(6) and 47(7) of the *Trade Practices Act 1974 (Cth)*.

Similar conduct is proposed in Stage 6 for 8 lots.

Twin Peak South Morang Pty Ltd submits that there is no likely detriment to the public resulting from that conduct. The proposed conduct does not have the effect of substantially lessening competition in the relevant market in that Palisades Estate is a large land subdivision in South Morang (Victoria) and this offering of 8 lots represents a very small proportion of residential real estate available for development in the Melbourne region.

The proposed conduct offers significant benefits to purchasers in that:

- Superior quality control and integration for this terrace product.
- Purchasers will not have to bear the cost of 'double' stamp duty as there is a single transfer of land from Twin Peaks South Morang Pty Ltd to the purchaser, avoiding an intermediate transfer to Glenvill Pty Ltd. If an intermediate transfer took place the resulting stamp duty would be passed on to the ultimate purchaser.
- As a consequence this portion of the much larger developer development will assist in creating a superior quality community, and new house and land packages will be available to purchasers at more affordable prices for the above reasons as well as the fact that the developer (Twin Peaks South Morang Pty Ltd) will not be required to pass on the holding costs associated with funding turn key house construction.

For the reasons stated above, Twin Peaks South Morang Pty Ltd submits that the proposed conduct provides benefits to the public and will have no anti-competitive effect and therefore no public detriment.

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

See response at item 4(a).

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)

Small terrace land retail market in the Melbourne region.

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)

Nil

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

Not applicable.

7. Further information

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

Leanne Doxey

Cooper Grace Ward

Level 20, 400 George Street (GPO Box 834) Brisbane Qld 4001

Phone: 07 3231 2941 Fax: 07 3231 8941

Email: leanne.doxey@cgw.com.au

Dated 8 December 2010

Signed by/on behalf of the applicant

.....
(Signature)

Marcus Roy Ford
(Full Name)

Cooper Grace Ward – solicitors for the applicant
(Organisation)

Partner
(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.

Form G

Commonwealth of Australia
Trade Practices Act 1974 — subsection 93 (1)
NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

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PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

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

N95209 Twin Peaks South Morang Pty Ltd ACN 117 056 229

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

Company engaged in the development of land and associated activities.

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

PO Box 3278, Australia Fair, Southport, Queensland 4215

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 land by Twin Peaks South Morang Pty Ltd in association with houses to be constructed by a builder on a parcel of land located at Palisades Boulevard, Palisades Estates, South Morang, Victoria.

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

Twin Peaks South Morang Pty Ltd proposes to offer land to the public as part of a house and land package. The customer will acquire the land on the condition that building services are to be performed by a third party, Sienna Building Pty Ltd ACN 128 617 532.

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)

The conduct relates to actual and potential house and land purchasers, purchasing land from Twin Peaks South Morang Pty Ltd and building services from Sienna Building Pty Ltd.

- (b) Number of those persons:

- (i) At present time:

0

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

Maximum of 8.

Only 8 lots will be offered this way in Stage 6 of Palisades Estates.

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

It is not possible to provide this information at this time as the potential purchasers have not yet been identified.

4. Public benefit claims

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

Twin Peaks South Morang Pty Ltd wishes to sell 8 lots in Stage 6 of their land subdivision in South Morang, Victoria and construct dwellings on the lots built by a third party Sienna Building Pty Ltd.

All dwellings have been preplanned as part of an integrated terrace product offering.

Purchasers will be required to enter into two separate contracts: a building agreement with Sienna Building Pty Ltd and a contract for the sale of land with Twin Peaks South Morang Pty Ltd.

The contract for the sale of the land will be conditional on the purchaser entering into the building contract with Sienna Building Pty Ltd.

The conduct described in this Form G is exclusive dealing within sections 47(6) and 47(7) of the *Trade Practices Act 1974 (Cth)*.

Similar conduct is proposed in Stage 5 for 8 lots.

Twin Peak South Morang Pty Ltd submits that there is no likely detriment to the public resulting from that conduct. The proposed conduct does not have the effect of substantially lessening competition in the relevant market in that Palisades Estate is a large land subdivision in South Morang (Victoria) and this offering of 8 lots represents a very small proportion of residential real estate available for development in the Melbourne region.

The proposed conduct offers significant benefits to purchasers in that:

- Superior quality control and integration for this terrace product.
- Purchasers will not have to bear the cost of 'double' stamp duty as there is a single transfer of land from Twin Peaks South Morang Pty Ltd to the purchaser, avoiding an intermediate transfer to Sienna Building Pty Ltd. If an intermediate transfer took place the resulting stamp duty would be passed on to the ultimate purchaser.
- As a consequence this portion of the much larger developer development will assist in creating a superior quality community, and new house and land packages will be available to purchasers at more affordable prices for the above reasons as well as the fact that the developer (Twin Peaks South Morang Pty Ltd) will not be required to pass on the holding costs associated with funding turn key house construction.

For the reasons stated above, Twin Peaks South Morang Pty Ltd submits that the proposed conduct provides benefits to the public and will have no anti-competitive effect and therefore no public detriment.

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

See response at item 4(a).

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Small terrace land retail market in the Melbourne region.

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(Refer to direction 9)

Nil

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

Not applicable.

7. Further information

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

Leanne Doxey

Cooper Grace Ward

Level 20, 400 George Street (GPO Box 834) Brisbane Qld 4001

Phone: 07 3231 2941 Fax: 07 3231 8941

Email: leanne.doxey@cgw.com.au

Dated 8 December 2010

Signed by/on behalf of the applicant

.....
(Signature)

Marcus Roy Ford
(Full Name)

Cooper Grace Ward – solicitors for the applicant
(Organisation)

Partner
(Position in Organisation)

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