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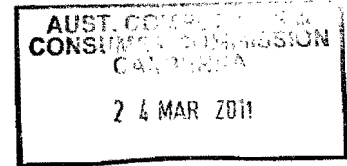
18 March 2011

10TH FLOOR 25 GRENFELL STREET ADELAIDE SA 5000  
GPO BOX 1272 ADELAIDE SA 5001 AUSTRALIA  
DX 131 ADELAIDE adelaide@minterellison.com  
TELEPHONE +61 8 8233 5555 FACSIMILE +61 8 8233 5556

EMAIL: adjudication@accc.gov.au

**CONFIRMATION OF E-MAIL**

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602



Dear Sirs

**Department of Housing, Local Government and Regional Services : Third Line Forcing Notification**

We act for the Department of Housing, Local Government and Regional Services.

Please find enclosed:

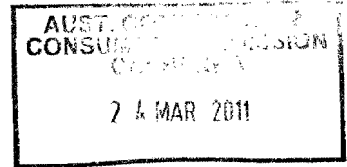
- a completed *Form G*; and
- a cheque in the sum of \$100, being the applicable lodgement fee.

If you have any questions, or require any further information, please do not hesitate to contact us.

Yours faithfully  
**MINTER ELLISON**

Joshua Simons  
Partner

Contact: Joshua Simons (08) 8233 5428  
Email: josh.simons@minterellison.com  
Our reference: JJS 28352/250



## 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)

N95329 Northern Territory of Australia (Represented by the Department of Housing, Local Government and Regional Services) ABN 84 085 734 992

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

The primary role of the Department of Housing, Local Government and Regional Services ('the department') is to deliver social housing programs and related infrastructure across the Territory, and to build stronger regions and communities through sustainable economic development and effective local government.

The department provides a range of services to support and strengthen communities throughout the Northern Territory including public housing, government employee housing, supported accommodation, interpreter and translator services, regional and Indigenous development, coordination of remote service delivery, water safety and animal welfare.

These services are provided through the department's key business areas, with offices located around the Territory. The key business areas are:

- Territory Housing Programs and Performance
- Local Government, Regional and Community Services
- Strategic Policy and Governance
- NT Home Ownership (government business division).

The government business division, NT Home Ownership, provides housing assistance products to increase home ownership opportunities for low to middle income earners in the Northern Territory.

Strategic issues for NT Home Ownership include continuing to increase the home ownership rate in the Territory by developing innovative solutions to align home ownership assistance products with current market conditions.

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

Josh Simons

Partner

Minter Ellison

GPO Box 1134, Darwin NT 0801

**2. Notified arrangement**

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

This notification relates to the sale of six residential land parcels in the Larapinta Stage 4, Phase 2 subdivision (**'Ridges Estate'**), located in Alice Springs in the Northern Territory.

The **Ridges Estate** is situated at the end of Albrecht Drive in the Alice Springs suburb of Larapinta, approximately 6 kilometres west of the Alice Springs CBD.

On 14 November 2005, the former Minister for Housing, the Hon Elliott McAdam announced a new approach to affordable housing in the **Ridges Estate** in which six parcels of land would be set aside for first home buyer house and land packages, and a larger parcel of land set aside for a small development of public housing (Attachment A).

On 7 March 2006 the Northern Territory Development Consent Authority issued development permit DP06/0033 which allowed the development of the **Ridges Estate**, which would facilitate the construction of 38 single dwellings and one multiple unit development. The successful proponent to develop this stage of Larapinta was Albrecht Subdivision Pty Ltd.

As part of the lease conditions attached to the Development Agreement of the **Ridges Estate**, the developer is required to transfer to the Northern Territory of Australia (**'NTA'**), freehold title of six single dwelling parcels of land (**'Affordable Lots'**) and one parcel for multiple unit development. Five of the lots are not less than 800 square metres in size, with the sixth lot being 734 square metres. A drawing of the subdivision is at Attachment B with the **Affordable Lots** marked with a blue symbol.

The Department requires that the **Affordable Lots** only be sold to eligible purchasers. The eligibility criteria is established by the Department and endorsed by the Minister for Public and Affordable Housing, the Hon Chris Burns MLA. Essentially the eligibility reflects the income means test used by the Department's Homestart NT loan scheme, and purchasers must also be first home buyers in Australia, and be eligible for the First Home Owners Grant.

The Department also wants to ensure that purchasers can find affordable builders. To this end, the Department appointed the Northern Territory Department of Construction and Infrastructure to go to public tender to select a designated builder to deliver the required affordable product, with a view to establishing a pre-approved list of three affordable housing designs to be supplied by a single builder for a fixed price.

On 11 March 2011 through the Northern Territory Government procurement process, Scope Building NT Pty Ltd were selected as the builder to construct the six affordable homes, subject to Australian Competition and Consumer Commission third line forcing approval.

In order to achieve the Department's desired outcomes, the Department will require that purchasers of the lots enter into fixed price construction contracts with Scope Building NT Pty Ltd. This requirement will be included as a term of the land contract of sale which will be entered into between the Department and the purchasers.

(b) Description of the conduct or proposed conduct:

The third line forcing conduct can be described as follows:

- The Department supplying, or offering to supply, **Affordable Lots** to eligible purchasers on condition that the purchaser enter into a contract for building and construction services with Scope Building NT Pty Ltd and/or
- The Department refusing to supply **Affordable Lots** to eligible purchasers because they have not entered into a contract for building and construction services with Scope Building NT Pty Ltd.

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)

Purchasers of **Affordable Lots** at the **Ridges Estate**, Alice Springs.

(b) Number of those persons:

(i) At present time:

Six **Affordable Lots** will be made available as part of the **Ridges Estate**, likely to be sold in the first half of 2011. The number of persons interested in those lots is unknown but is likely to exceed 50.

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

Six contracts for **Affordable Lots** will be entered into within the next year. The number of persons interested in those lots is unknown but is likely to exceed 50.

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

N/A

#### 4. Public benefit claims

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

The conduct will have, at least, the following public benefits:

- The selection of Scope Building NT Pty Ltd via a competitive tender process ensures that purchasers of **Affordable Lots** (being citizens who have lower annual income and/or minimal assets) are guaranteed an affordable fixed price for the construction of a home in Larapinta; and
- purchasers will be purchasing the **Affordable Lots** at below market value, providing they do not on sell within a certain period; and
- the fixed price nature of the building and construction contracts will ensure that all projects are delivered within cost, avoiding additional costs being incurred by purchasers.

The single pre-approved builder, Scope Building NT Pty Ltd, will offer a lower price by reason of:

- building to a fixed design, thereby removing the need for scoping and design work;
- a guaranteed volume of work;
- bulk acquisition of materials, by reason of the same design being used on a number of occasions; and
- the ability for construction to be commenced and completed quickly, as price has already been agreed, design settled and materials available.

The conduct will have little or no detriment on competition in the relevant market(s), by reason of it only applying to six **Affordable Lots**.

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

See the Northern Territory Government's *Housing the Territory* website <http://www.housingnt.nt.gov.au/> providing information:

- about the Territory Government's land release program
- to help people get into their first home
- about new places to rent
- about public housing.

## 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)

- The market for the sale of residential land in the metropolitan areas of the Northern Territory;
- The market for residential building and construction services in the metropolitan areas of the Northern Territory.

## 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)

Builders who are not selected to construct homes on **Affordable Lots** as part of the **Ridges Estate** will not be able to access customers for those lots. However, these builders can still provide services for the remainder of the **Ridges Estate**, being approximately 85 per cent of the development, as well as a range of other developments in the Northern Territory.

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

## 7. Further information

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

Josh Simons  
Partner  
Minter Ellison Lawyers  
GPO Box 1134, Darwin NT 0801  
Tel: (08) 8901 5900

Dated. 18/3/11

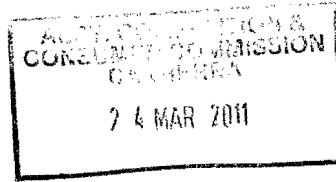
Signed by/on behalf of the applicant

[Signature]  
(Signature)

Joshua Simons  
(Full Name)

Mister Ellison  
(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.