

ACCC
23 JUL 2012
PERTH

FORM G
COMMONWEALTH OF AUSTRALIA
Trade Practices Act 1974-Sub-section 93 (1)

EXCLUSIVE DEALING:
NOTIFICATION

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93 (1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to in subsection 47(2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

1. Applicant

(a) Name of person giving notice:

N96022 Enclave at St Leonards Ltd ACN 146 402 762 (Owner)

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

Sale of house and land packages in relation to lots to be created from:

- i. Lot 1 on Diagram 56809, being the whole of the Land in certificate of title volume 1558 folio 169; and
- ii. Lot 2 on Diagram 56809, being the whole of the Land in certificate of title volume 1558 folio 170.

(collectively the Land)

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

C/- Aspen Group Limited of Level 8, 256 Adelaide Tce, Perth, Western Australia.

2. Notified arrangement

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

Sale of house and land packages in relation to lots created from the Land.

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

The Owner owns the Land and intends to subdivide the Land.

The Owner intends to offer the proposed subdivided lots for sale as house and land packages. Under the proposed contract for sale, each buyer will be required to engage a third party, Homebuyers Centre Pty Ltd ACN 051 346 591 (**Builder**), to construct a dwelling on the subdivided lot.

3 Persons, or classes or persons, affected or likely to be affected by the notified conduct

- (a) Class or classes of persons to which the conduct relates:

The conduct relates to buyers of house and land packages from the Owner.

- (b) Number of those persons:

(i) At present time – not applicable

(ii) Estimated within the next year – 12. This is the anticipated number of lots in the proposed subdivision.

- (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 buyers have not been identified.

4 Public benefit claims

- (a) Arguments in support of notification:

The use of one builder to construct all the dwellings in the development enables the Builder to construct each dwelling for less cost. This enables the Builder to charge each buyer less for the construction of each dwelling.

This will increase the residential land supply in Western Australia.

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

Nil

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 is the residential real estate market in Western Australia.

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:

The Owner submits that there is no likely detriment to the public resulting from the proposed conduct.

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

Nil.

7. Further Information

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

Name: **Nick Lewis**
Address: Level 8, 256 Adelaide Terrace, Perth WA 6000
Telephone: 9220 8425

Dated: 18th July 2012

Signed on behalf of the person giving this notice

A handwritten signature in black ink, appearing to read 'Nick Lewis', is written above a solid horizontal line.

Full name: Nick Lewis

Description: Assistant Development Manager

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 *Competition and Consumer Act 2010* 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.