

Our reference
MK/LWPP8060/1049770

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**CORRS
CHAMBERS
WESTGARTH**
lawyers

Sydney
Melbourne
Brisbane
Perth

FILE No:

DOC:

MARS/PRISM:

20 February 2012

Dr Richard Chadwick
General Manager Adjudication Branch
Australian Competition and Consumer
Commission
GPO Box 3131
Canberra ACT 2601

Contact
Matthew Knox (08) 9460 1602
Email: matthew.knox@corrs.com.au

Dear Dr Chadwick

Exclusive dealing notification -- LWP Property Group

We act for LWP Property Group Pty Ltd.

We **attach** for the Australian Competition and Consumer Commission's consideration exclusive dealing notifications by:

- (a) LWP Byford Syndicate Pty Ltd; and
- (b) Northern Corridor Developments Ltd,

in accordance with section 93(1) of the *Competition and Consumer Act 2010*.

We also **attach** a cheque for \$200 in payment of the notifications.

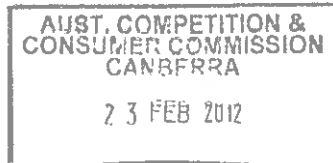
Please contact me if you wish to discuss either notification.

Yours faithfully
Corrs Chambers Westgarth



Matthew Knox
Partner

attachments



Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — 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 *Competition and Consumer Act 2010*, 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.

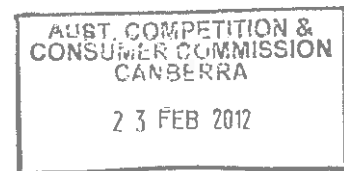
PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

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

N95741 LWP Byford Syndicate Pty Ltd
ACN 117 550 553

C/- LWP Property Group Pty Ltd
34 Main Street
ELLENBROOK WA 6069



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

The Applicant is the registered proprietor of "The Glades" comprising 3,575 lots in Byford, Western Australia (**Site**), which the Applicant is developing as a residential housing estate, and marketing and selling lots or residential land for that purpose.

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

Attention: Mr Matthew Knox
Corrs Chambers Westgarth Lawyers
Level 15, 240 St Georges Terrace
PERTH WA 6000

2. Notified arrangement

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

House and land packages.

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

The Applicant proposes supplying, and offering to supply, a selection of lots at the Site on the condition that the buyer also enters into a building

contract directly with a builder nominated by the Applicant (**Nominated Builder**). Each Nominated Builder will be allocated a particular lot or lots at the Site.

The Applicant proposes refusing to supply lots at the Site to any potential buyer who does not agree to enter into a building contract directly with a Nominated Builder.

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)

Potential and actual buyers of residential lots at the Site.

- (b) **Number of those persons:**

- (i) **At present time:**

40.

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

40.

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

Not known at this stage.

4. Public benefit claims

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

The Site will ultimately comprise 3,575 lots. The Applicant intends to allocate a selection of lots, comprising less than 20% of the Site, to Nominated Builders. Any dwelling constructed on the lot must comply with the Applicant's design guidelines and building requirements.

The notified conduct will provide the following benefits to the public:

- 1) as a master planned community, consistency, quality and integrity of design, appearance and streetscape, providing buyers with confidence as to:
- (A) the Site as a desirable neighbourhood environment; and
 - (B) their investment in purchasing a lot on the Site;

- 2) the Proposed Conduct is the most efficient method to deliver affordable housing outcomes as the majority of the lots will be sold to first home owners;
- 3) the lots affected by the Proposed Conduct are generally less than 300 square metres in area and are most efficiently constructed in rows by one builder in a terrace housing design;
- 4) the selection of specific design outcomes by the Applicant will enhance the capital value of the property for the buyer;
- 5) the project has a Display Village of at least twenty (20) builders. There is an adequate supply of lots not covered by the Proposed Conduct for sale by other builders. Less than 20% of lots in the housing estate are to be designated as house and land packages in the manner described above in 2(b);
- 6) the Nominated Builders can invest time in drawing up plans that would fit the lots and have them approved in advance by LWP;
- 7) by the Applicant nominating reputable Nominated Builders, control of quality at the Site, which in turn gives buyers confidence in the quality of product they are receiving;
- 8) competition between the Nominated Builders (in terms of design, quality, expediency and cost) for potential buyers to acquire a lot associated with that Nominated Builder;
- 9) cost benefits to buyers, including:
 - (A) reduced marketing costs through the integrated selling of house and land can be passed onto the buyer;
 - (B) construction by Nominated Builders occurring on a volume basis producing economies of scale; and
 - (C) by selling the lot to the ultimate buyer rather than first to the Nominated Builder and then to the ultimate buyer, the ultimate buyer is not carrying the effective impact of paying duty on two transactions.

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

See above.

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 sale of real estate zoned Residential, or capable of being zoned residential, in metropolitan Perth.

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)

The Applicant submits that the notified arrangement involves no public detriments because.

- 1) the real estate market in metropolitan Perth is highly competitive and, in particular, there are various competing residential developments available throughout Perth;
- 2) the Site represents a small portion of the relevant market;
- 3) there will be competition between the Nominated Builders at the Site; and
- 4) the buyer enjoys the cost benefits described at item 4(a).

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

See above.

7. Further information

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

Mr Matthew Knox
Corrs Chambers Westgarth Lawyers
Level 15, 240 St Georges Terrace
PERTH WA 6000

T: 08 9460 1663

F: 08 9460 1667

E: matthew.knox@corrs.com.au

Dated: 16 February 2011

Signed by/on behalf of the applicant

[Handwritten Signature]
.....
(Signature)

DANNY WILLIAM MURPHY
.....
(Full Name)

LWP PROPERTY GROUP PTY LTD
.....
(Organisation)

MANAGING DIRECTOR
.....
(Position in Organisation)

AUST. COMPETITION &
CONSUMER COMMISSION
CANBERRA
23 FEB 2012

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.

Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — 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 *Competition and Consumer Act 2010*, 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.

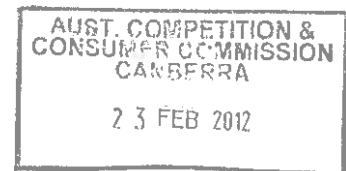
PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

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

N95742 Northern Corridor Developments Ltd
ACN 009 291 043

C/- LWP Property Group Pty Ltd
34 Main Street
ELLENBROOK WA 6069



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

The Applicant is the registered proprietor of "Trinity" comprising 2,777 lots in Alkimos, Western Australia (Site), which the Applicant is developing as a residential housing estate, and marketing and selling lots or residential land for that purpose.

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

Attention: Mr Matthew Knox
Corrs Chambers Westgarth Lawyers
Level 15, 240 St Georges Terrace
PERTH WA 6000

2. Notified arrangement

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

House and land packages.

- (b) **Description of the conduct or proposed conduct:**
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The Applicant proposes supplying, and offering to supply, a selection of lots at the Site on the condition that the buyer also enters into a building

contract directly with a builder nominated by the Applicant (**Nominated Builder**). Each Nominated Builder will be allocated a particular lot or lots at the Site.

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

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(Refer to direction 5)

Potential and actual buyers of residential lots at the Site.

(b) Number of those persons:

(i) At present time:

40.

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

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

Not known at this stage.

4. Public benefit claims

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

The Site will ultimately comprise 2,777 lots. The Applicant intends to allocate a selection of lots, comprising less than 20% of the Site, to Nominated Builders. Any dwelling constructed on the lot must comply with the Applicant's design guidelines and building requirements.

The notified conduct will provide the following benefits to the public:

l) as a master planned community, consistency, quality and integrity of design, appearance and streetscape, providing buyers with confidence as to:

(A) the Site as a desirable neighbourhood environment; and

(B) their investment in purchasing a lot on the Site;

- 2) the Proposed Conduct is the most efficient method to deliver affordable housing outcomes as the majority of the lots will be sold to first home owners;
- 3) the lots affected by the Proposed Conduct are generally less than 300 square metres in area and are most efficiently constructed in rows by one builder in a terrace housing design;
- 4) the selection of specific design outcomes by the Applicant will enhance the capital value of the property for the buyer;
- 5) the project has a Display Village of at least twenty (20) builders. There is an adequate supply of lots not covered by the Proposed Conduct for sale by other builders. Less than 20% of lots in the housing estate are to be designated as house and land packages in the manner described above in 2(b);
- 6) the Nominated Builders can invest time in drawing up plans that would fit the lots and have them approved in advance by LWP;
- 7) by the Applicant nominating reputable Nominated Builders, control of quality at the Site, which in turn gives buyers confidence in the quality of product they are receiving;
- 8) competition between the Nominated Builders (in terms of design, quality, expediency and cost) for potential buyers to acquire a lot associated with that Nominated Builder;
- 9) cost benefits to buyers, including:
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 - (C) by selling the lot to the ultimate buyer rather than first to the Nominated Builder and then to the ultimate buyer, the ultimate buyer is not carrying the effective impact of paying duty on two transactions.

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

See above.

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(Refer to direction 9)

The Applicant submits that the notified arrangement involves no public detriments because.

- 1) the real estate market in metropolitan Perth is highly competitive and, in particular, there are various competing residential developments available throughout Perth;
- 2) the Site represents a small portion of the relevant market;
- 3) there will be competition between the Nominated Builders at the Site; and
- 4) the buyer enjoys the cost benefits described at item 4(a).

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

See above.

7. Further information

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

Mr Matthew Knox
Corrs Chambers Westgarth Lawyers
Level 15, 240 St Georges Terrace
PERTH WA 6000

T: 08 9460 1663

F: 08 9460 1667

E: matthew.knox@corrs.com.au

Dated: 16 February 2011

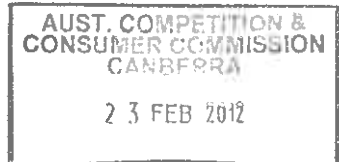
Signed by/on behalf of the applicant

D. Murphy
.....
(Signature)

DANNY WILLIAM MURPHY
.....
(Full Name)

LWP PROPERTY GROUP PTY LTD
.....
(Organisation)

MANAGING DIRECTOR
.....
(Position in Organisation)



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