

Form G

NOTIFICATION OF EXCLUSIVE DEALING

Commonwealth of Australia

Competition and Consumer Act 2010 — subsection 93 (1)

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 the person giving notice:

N97994 30 Withers Land Pty Ltd – ACN 168 536 605

N98000

b. Short description of business carried on by that person:

30 Withers Land Pty Ltd is land owner and developer of a residential estate of about 30 new homes known as "Withers Rise" at Kellyville in Sydney's North West Sector Growth Area.

The development will include the sale of house and land packages as well as land only with a preselected team of builders.

c. Address in Australian for service of documents on that person:

30 Withers Land Pty Ltd
Suite 5 Level 5, 66 Hunter Street, Sydney, NSW 2000
Att: Justin Kucic
Ph: 02 9994 0202
Fax: 02 9994 0205

2. Notified arrangement

a. Description of the goods and services in relation to the supply or acquisition of which this notice relates:

30 Withers Land Pty Ltd has contracted to own approximately 1.3 hectares of land in Kellyville, NSW (see Appendix 1 for the title details) (the "Project Land").

The Project Land will be developed as a residential estate and sold by 30 Withers Land Pty Ltd. It will be subdivided into residential lots in a single stage over a period of 9-12 months depending on market demand. The estate will include a mix of lot sizes and dwelling types to provide a range of housing choice to the market. Lot sizes will range for approximately 240 m² to 600 m².

In order to get the smaller lots approved by the Hills Council it has been established that the developer will need to control the design outcome by using a selected builder and an established architectural brief. In this respect we have selected Creation Homes, who are a well established Project Home Builder who is capable of producing quality and affordable project homes to suit the lots being produced at Withers Rise.

30 Withers Land Pty Ltd proposes to control the quality of homes through the Builder by selling the residential allotments in one of two ways:-

- As house and land packages where the Builder has secured the allotment with an option agreement and then introduces a purchaser through the Project Selling Agent who then enters into a separate Building Contract with the Builder prior to entering into the Land Sale Contract or
- As a land sale where the purchaser is introduced by the Project Selling Agent. They will then enter into a Land Sale Contract and then as a condition of that contract must enter into a Building Contract with the selected builder.

b. Description of the conduct or proposed conduct:

- A. In order to participate in the Project the Builder will be required to enter into an exclusive agency agreement with the developer's selected Project Selling Agent.
- B. Further, purchasers entering into a Land Sale Contract to buy an allotment will be required to enter into a Building Contract with the builder.

There is a possibility, which is not admitted by the developer that these proposed conducts, contravenes or will contravene sections 47(6) and 47(7) of the *Competition and Consumer Act 2010*.

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:

- A. The Builder
- B. Purchasers buying an allotment at Withers Rise

b. Number of those persons:

- (i) At present time:
1
- (ii) Estimated within the next year:

(Refer to direction 6)

- A. Up to 30

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

- A Creation Homes, Level 4, 484 St Kilda Road Melbourne VIC 3121
- B Yet to be identified

4. Public benefit claims

a. Arguments in support of notification:

The selected Builder will be pricing their homes against a very competitive market with over 200 display homes and numerous building in the local North West Sector Growth Area.

Combining the sale of residential allotments with a build contract for the construction of a dwelling on that allotment allows purchasers to enter into a combined package to buy a new home with the benefits of purchasing land and staging construction payments as opposed to acquiring the completed product post completion. Such a format may provide savings to the purchaser, such as stamp duty and development margin.

b. Facts and evidence relied upon in support of these claims:

The Project Land is part of the North West Sector Growth Centre that includes land in the Blacktown and the Hills LGA's. It includes 10,000 hectares and 70,000 new dwellings for over 200,000 people over the next 20 years. There are many, many land development projects and over 200 display homes competing for business in this area.

5. Market definition

Provide a definition 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):

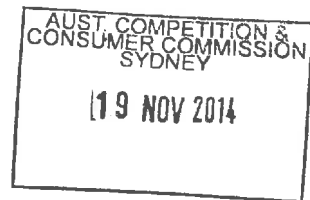
(Refer to direction 8)

The relevant market is the North West Sector Growth Centre that includes land in the Blacktown and the Hills LGA's. It includes 10,000 hectares and 70,000 new dwellings for over 200,000 people over the next 20 years. There are many, many land development projects and over 200 display homes competing for business in this area.

6. Public detriments

Detriments to the public resulting or likely to result for the notifications, 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)

- a. The proposed conduct will not result in public detriment because there are many other large estates in the North West Sector Growth Centre that is estimated by the



Dated..... 14 November 2014

Signed by/on behalf of the applicant

.....

(Signature)

..... ANDREW MUTTON

(Full Name)

..... LEGAL ADVISOR & AUTHORISED SIGNATORY - 30 WITHERS LAND PTY LTD

(Organisation)

..... SOLICITOR

(Position in Organisation)

Department of Planning to produce between 2,000 - 3,000 allotments per year for the next 20 years.

b. Facts and evidence relevant to these detriments:

If the Builder or purchasers are dissatisfied with the arrangements at Withers Rise they can consider several other surrounding developments that will offer alternative sources of land for sale in similar locations.

7. Further information

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

30 Withers Land Pty Ltd
Suite 5 Level 5, 66 Hunter Street, Sydney, NSW 2000
Att: Justin Kucic
Ph: 02 9994 0202
Fax: 02 9994 0205

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.

Appendix 1

Title Details – Project Land

Proposed Lot 1 & 2 in unregistered plan of subdivision of Lot B in DP 27016