

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)

N97308 East Busselton Estate Pty Ltd (ABN 83 103 334 667)

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

Acquisition, development and sale of land.

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

C/- 18 Bowman Street
South Perth WA 6151 (PO Box 410 South Perth WA 6951)

2. Notified arrangement

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

See Annexure A attached.

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

See Annexure A attached.
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)

See Annexure A attached

- (b) Number of those persons:
 - (i) Not known
 - (ii) Estimated within the next year:
(Refer to direction 6)

Not known
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

Not applicable

4. Public benefit claims

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

See Annexure A attached
- (b) **Facts and evidence relied upon in support of these claims:**

See Annexure A attached

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)

See Annexure A attached

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)

See Annexure A attached
- (b) **Facts and evidence relevant to these detriments:**

See Annexure A attached

7. Further information

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

Simon Flesher
Sales Operations Manager
Satterley Property Group Pty Ltd
18 Bowman Street
South Perth WA 6151


Phone: 9368 9055
Mobile: 0477 000 115
Fax: 9368 9002

Dated _____ day of _____ 2013

Signed by/on behalf of the applicant
East Busselton Estate Pty Ltd


.....
(Signature) Director

David Conrad Williams
.....
(Full Name)


.....
(Signature) Director/Secretary

Rossmore James Carmichael
.....
(Full Name)

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 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.

ANNEXURE A

1. East Busselton Estate Pty Ltd is developing a residential estate known as "Provence Estate" situated in the suburb of Yalyellup. It is located approximately 197 kilometres to the south-west of Perth and approximately 3kilometres from the centre of the township of Busselton. The Estate is being developed in Stages.
2. Satterley Property Group Pty Ltd (Satterley) has been appointed by the Land Owner as the project and selling agent of the Estate.
3. On the 24th January 2014 the Australian Competition and Consumer Commission granted legal immunity from third line forcing for 6 lots in Stage 12A Provence Estate as per Notification NN97203 and on the 26th February 2014 the ACCC conferred legal immunity for a further 4 lots as per Notification N97258.
4. Satterley has identified a further 4 residential lots (House and Land Package Lots) out of the 20 lots in Stage 12A of the Estate and 23 lots out of a total of 28 lots in Stage 12B which it proposes to offer to selected builders (Builders) to market on the basis that the Builders will construct residences for buyers on the House and Land Package Lots.
5. It is proposed that the Builders will be able to market (in conjunction with Satterley "house and land packages" on the House and Land Package Lots. It will be a condition of the sale of the House and Land Package Lots that buyers enter into a building contract with one of the Builders. Prime facie, this proposal may amount to third line forcing under the provisions of the *Competition and Consumer Act 2010 (Cth)*.
6. It is proposed that the Land Owner will enter into put options with Builders whereby any House and Land Package Lots not sold to buyers as mentioned in Item 5 above within a specified timeframe will be required to be purchased from the land owner by the Builders.
7. The House and Land Package Lots will be provided to the Builders at an affordable price range with the balance of the land being sold at market price. The house and land package market in the Busselton region, and in particular the suburb of Yalyellup, is strong. There are numerous land developers providing a variety of land products, as well as Builders providing dwellings suitable for the first home buyer through to the upper market sector.
8. It is considered that the likely benefit to the public from the proposed conduct will outweigh the likely detriment to the public from the proposed conduct in that the conduct will encourage the Builders to build residences of a high standard and which will meet the Land Owner's requirements and which are intended to be competitively priced.
9. It is considered that this proposal will not have the effect of substantially lessening competition in the market for residential land and/or building services in the Bunbury region or in the vicinity of the Estate given that there are 35 residential lots currently available in various stages of the development which will be sold without restriction. This figure excludes the balance of lots in Stage 12B which are pending release to the general public. Buyers who do not wish to be limited in their choice of builder have the opportunity

to purchase another lot (without restriction) within the Provence Estate or estates in nearby suburbs.

10. Satterley expects that prospective buyers will receive a competitively priced building price for the proposed residence to be constructed on the House and Land Package Lots as the Builders can implement economies of scale due to multiple dwellings being constructed in close proximity. The proposal provides for the most affordable house options predominately targeted to the first home buyer, which is beneficial to the community.
11. Satterley and the Land Owner will not receive any fee, commission or other financial reward in relation to the building contracts to be entered into between the Builders and buyers of the House and Land Package Lots.