



**Australian
Competition &
Consumer
Commission**

Our Ref: TRACKIT 53582
Contact Officer: Gina D'Ettorre
Contact Number: 03 9290 1483

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3 January 2014

Ms Robyn Rogers
Senior Associate
Norton Rose Fulbright Australia

**By email: robyn.rogers@nortonrosefulbright.com
Jessica.melville@notonrosefulbright.com**

Dear Ms Rogers

**Third line forcing notification N97183 lodged by Taskers Living Pty Ltd and the
purported notification sought to be lodged on behalf of Dempsey Gillespie
Construction Pty Ltd**

I refer to the third line forcing notification lodged on behalf of Taskers Living Pty Ltd with the Australian Competition and Consumer Commission (the ACCC) on 24 December 2013. The notification has been placed on the ACCC's public register.

Taskers Living Pty Ltd as Trustee for McCabe Street Investments Pty Ltd, McCabe Street Investments No.2 Pty Ltd and McCabe Street Limited (Taskers) proposes to sell residential lots located at 15 McCabe Street, North Fremantle, WA, to customers on condition that they will enter into a contract with Dempsey Gillespie Construction Pty Ltd to construct a dwelling on the lot.

Legal immunity conferred by the notification will commence on 7 January 2014.

On the basis of the information you have provided, it is not intended that further action be taken in this matter at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by the notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

This assessment has been made on the basis that Taskers and Dempsey Gillespie Construction Pty Ltd will disclose all relevant terms and conditions to prospective customers.

Invalid notification

The ACCC is required to assess whether a purported notification meets the validity requirements of the *Competition and Consumer Act 2010* (the Act). Notifications which do not meet these requirements are invalid under section 93(1) of the Act. Section 93(1) of the Act provides that a corporation that engages, or proposes to engage in conduct of a kind referred to in the relevant subsections of section 47 of the Act, may give notice to the ACCC setting out particulars of the conduct.

In this regard, I note that the email of 24 December 2014 in which the Form G (the Taskers notification) was provided advised that a lodgement fee of \$200 was paid to the ACCC on behalf of both Taskers and Dempsey Gillespie Construction Pty Ltd. However, Dempsey Gillespie Construction Pty Ltd is not listed as an applicant on the Form G nor does the description of the conduct indicate that Dempsey Gillespie Construction Pty Ltd is proposing to engage in third line forcing conduct.

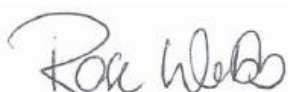
Accordingly, pursuant to section 93(2B) of the Act, as a person authorised to make a decision for and on behalf of the ACCC in relation to such matters, I give notice that the purported notification in respect of Dempsey Gillespie Construction Pty Ltd has not been validly lodged with the ACCC.

The \$100 lodgement fee in respect of the purported notification will be refunded shortly. This decision does not affect the validity of the notification lodged by Taskers.

If you consider that Dempsey Gillespie Construction Pty Ltd is at risk of engaging in conduct of the kind described in section 47 of the Act, you may consider lodging a notification describing such conduct in those terms.

A copy of this letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Gina D'Ettorre on 03 9290 1483.

Yours sincerely



Rose Webb
Executive General Manager
Mergers & Adjudication Group