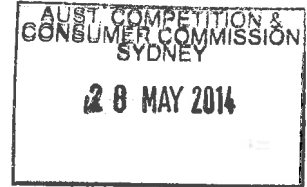


Partner Paul McLachlan
Direct line 02 9270 8606
Email pmclachlan@mccullough.com.au
Our reference PDM:114200-00753

27 May 2014

Australian Competition & Consumer Commission
175 Pitt Street
SYDNEY NSW 2000



Deliver

Dear Sir/Madam

Notification of exclusive dealing

| |
|-------------|
| FILE No: |
| DOC: |
| MARS/PRISM: |

We **attach** the following on behalf of our client Devine Limited, ABN 51 010 769 365:

- (a) a Form G; and
- (b) cheque payable to the Australian Competition & Consumer Commission for the lodgement fee of \$100.

Yours faithfully

Paul McLachlan
Partner



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:**

N97421 Devine Limited ABN 51 010 769 365 (**Devine**)
Level 1, 485 Kingsford Smith Drive
Hamilton, Queensland 4007

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

Devine provides residential housing services including development and sale of residential land and housing and supply of residential house and land packages within a residential housing estate.

Devine owns land on which it proposes to manage the construction of 'Riverstone Rise', a residential development located on Boyne Island Drive, Boyne Island Queensland.

On completion, Riverstone Rise will comprise approximately 2,900 residential lots, utilities and other service infrastructure together with accompanying schools and child care facilities, community facilities, retail and associated parking.

There are currently 200 house and land packages available for purchase at Riverstone Rise through a range of builders and real estate agents.

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

C/- Mr Paul McLachlan
Partner
McCullough Robertson
Level 16, 55 Hunter Street
Sydney NSW 2000
Email: pmclachlan@mccullough.com.au

2 **Notified arrangement**

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

The relevant goods and services are:

- (i) the sale of residential house and land packages; and
- (ii) the supply of property and tenancy management services.

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

(Refer to direction 4)

For a limited time, Devine wishes to set aside up to a maximum of 30 house and land packages at Riverstone Rise (**Lots**) and offer investor purchasers of those Lots a fixed 6% gross rental return for 2 years from the purchase date (**rental lock guarantee**). However, Devine does not provide the property and tenancy services. Accordingly, in order to provide the rental lock guarantee, Devine must ensure that purchasers, on acquisition of the Lots, enter into a tenancy and property management agreement with a suitable service provider.

The proposed conduct the subject of this notification is that as a condition of receiving the rental lock guarantee, purchasers of the Lots are required to enter into an agreement to acquire tenancy and property management services for the Lot from LJ Hooker Gladstone.

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)

Individual purchasers investing in the Lots who take up the rental lock guarantee.

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

(i) **At present time:**

Maximum of 30 (equal to the maximum number of residential lots at Riverstone Rise which may be subject to the proposed rental arrangement).

(ii) **Estimated within the next year:**

(Refer to direction 6)

30

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

Not currently known before purchases are made.

4 **Public benefit claims**

- (a) **Arguments in support of notification:**

(Refer to direction 7)

The notified conduct will:

- (i) give prospective investor purchasers an attractive investment opportunity;
 - (ii) increase investment activity leading to increased access to rental housing for prospective tenants;
 - (iii) support the local community and economy by encouraging tenants to move to or stay in the local area;
 - (iv) ensure purchasers have a reputable property and tenancy manager;
 - (v) save purchasers time and money by removing the need to identify and engage an alternative suitably skilled tenancy and property manager; and
 - (vi) provides purchasers with continuity of service from purchase and construction, right through to completion and property and tenancy management, enabling them to access the expertise of the party who constructed the property on an ongoing basis.
- (b) **Facts and evidence relied upon in support of these claims:**

The rental lock guarantee creates an attractive offer for investor purchasers as it provides them with certainty of return on investment for a period of time, and cost and time efficiencies in not having to seek out and determine an appropriate property and tenancy services manager themselves.

The more attractive an investment is to a purchaser the more likely they are to purchase property, increasing the demand for housing and encouraging large-scale development which will in turn have downstream industry, economic and community benefits.

The demand for housing will:

- (i) support the housing industry generally, as well as associated industries such as the construction industry and homewares industries, bringing a range of jobs to the local area; and

- (ii) ensure more affordable rental housing through the provision of new rental properties increasing options for renters in the local community and putting downward pressure on rent prices, while maintaining attractive returns for investors.

The rental lock guarantee cannot be provided without the provisions of property and tenancy manager services including:

- (iii) assessing tenant eligibility and retain tenant records;
- (iv) managing the determination of rents to charge to tenants;
- (v) providing property management and maintenance functions;
- (vi) managing the ongoing tenancy; and
- (vii) complying generally with state residential tenancy legislation.

Devine does not provide the above services, and as such, Devine must appoint a property and tenancy manager. LJ Hooker Gladstone is an experienced property and tenancy manager in the local area. As a result of the notified conduct, purchasers will benefit from having a reputable property manager in LJ Hooker who is experienced in the obligations under residential property laws.

Furthermore, the uniform advertising and tenancy arrangements stemming from using the one property manager for the Lots will enable Devine to minimise the administrative burden of the rental lock guarantee, and without these efficiencies, it would not be economically or practically viable for Devine to provide the rental lock guarantee. The uniform advertising and tenancy arrangements will also make it easier to manage the Lots and result in time and cost efficiencies which will make the Lots more attractive to potential purchasers.

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 relevant markets or market segments, for the purposes of this notification may comprise:

- (a) the market for the supply and acquisition of residential investment properties in and around Gladstone; and
- (b) provision of property and tenancy management service providers in and around Gladstone and potentially Queensland and nationally.

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 notified conduct may marginally reduce competition in the market for property and management services in and around Gladstone by limiting choice of property and tenancy management services provided at Riverstone Rise.

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

It is arguable that the requirement that investor purchasers enter into a tenancy and property management arrangement with LJ Hooker Gladstone is a third line force.

However, there is little or no detriment in giving investor purchasers less choice over which third party property manager they go to as by as other property managers will still have residences both in Riverstone Rise and other locations in and around Gladstone that they can manage. While Devine is only offering the rental lock guarantee if the purchaser uses LJ Hooker Gladstone, investors who do not wish to deal with LJ Hooker Gladstone for any reason (including because they wish to manage it themselves) could still purchase the property without access to the rental lock guarantee or purchase a property from another builder.

Furthermore, by requiring purchasers to enter into a management agreement with LJ Hooker Gladstone Devine is ensuring they are using a reputable provider in the delivery of property and tenancy management services and has wider public benefits in ensuring more affordable housing is available.

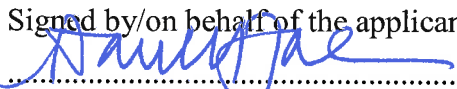
Any reduction in competition in any relevant market is likely to be negligible, and far outweighed by the benefits outlined above.

7 Further information

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

C/- Mr Paul McLachlan
Partner
McCullough Robertson
Level 16, 55 Hunter Street
Sydney NSW 2000
Phone: 02 9270 8606
Email: pmclachlan@mccullough.com.au

Dated 27 MAY 2014

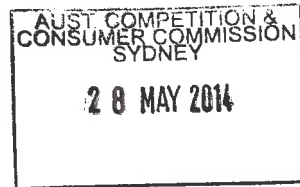
Signed by/on behalf of the applicant


(Signature)
PAUL DESMOND MCLACHLAN

(Full Name)
MCCULLOUGH ROBERTSON

(Organisation)
PARTNER

(Position in Organisation)



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.