

ACCC
12 JUN 2014
PERTH



WESTERN CORPORATE
Project Managers & Consultants

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11 June 2014

The Director
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 6381
EAST PERTH WA 6892

Dear Sir / Madam

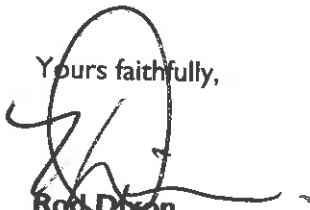
SUBMISSION – FORM G – NOTIFICATION OF EXCLUSIVE DEALING

Western Corporate act for Portstyle Enterprises Pty Ltd in respect to the above and have been instructed to submit the enclosed 'Notification of Exclusive Dealing' to you.

The required Form G has been completed together with an accompanying submission comprising additional detail. An application fee cheque is also enclosed.

We trust the enclosed material is sufficient for your consideration and look forward to your earliest possible assessment.

Yours faithfully,



Rod Dixon
General Manager

cc. Mr J Richards, Portstyle Enterprises

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)

N97490 PORTSTYLE ENTERPRISES P/L ATFT PORTSTYLE
UNIT TRUST ACN 116 470 001 T/95
BORONIA GARDENS VILLAGE

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

PARK HOME DEVELOPMENT - BORONIA
GARDENS VILLAGE, LOT 734 BARKER ROAD,
ALBANY, WESTERN AUSTRALIA.

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

LEVEL 1, 252 FITZGERALD ST
PERTH WA 6000
OR PO BOX 235
NORTH PERTH WA 6906

2. Notified arrangement

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

AN AGREEMENT TO PURCHASE HOMES AND LEASE HOME
SITES AT BORONIA GARDENS VILLAGE.

(b) Description of the conduct or proposed conduct:

PORTSTYLE ENTERPRISES WILL LEASE (SUPPLY) TO POTENTIAL LESSEES A HOME SITE IN BORONIA GARDENS VILLAGE, ON THE CONDITION THE POTENTIAL LESSEE WILL AGREE TO ACQUIRE A HOME FROM A NOMINATED MANUFACTURER BEING KENT CORPORATION.

(Refer to direction 4)

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 ATTACHED SUBMISSION

(b) Number of those persons:

(i) At present time:

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

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

4. Public benefit claims

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

.....
..... SEE ATTACHED SUBMISSION
.....

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

.....
.....
.....

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 ATTACHED SUBMISSION
.....

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 ATTACHED SUBMISSION
.....

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

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.....
.....

7. Further information

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

JAMES RICHARDS, DIRECTOR, PORTSTYLE ENTERPRISES,
MOBILE 0411 477 070; OR ROD DIXON, GENERAL
MANAGER, WESTERN CORPORATE, MOBILE 0411 119 799
BOTH OF PO BOX 235, NORTH PERTH WA 6906.

Dated... 10 - JUNE - 2014

Signed by/on behalf of the applicant


.....
(Signature)

JAMES ARTHUR RICHARDS
.....
(Full Name)

PORTSTYLE ENTERPRISES
.....
(Organisation)

DIRECTOR (SOLE)
.....
(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.

Submission by Portstyle Enterprises trading as 'Boronia Gardens Village'

**In support of Notification of Exclusive Dealing under the Competition and Consumer Act 2010
– subsection 93 (1)**

1) Introduction

- a) Portstyle Enterprises Pty Ltd propose to offer for lease Home Sites on land which it owns at Lot 734 Barker Road, Albany, W.A. The project is to be known as “**Boronia Gardens Village**” (BGV).
- b) Purchasers will be required to enter into two agreements:
 - i) An Agreement to Premises Reservation, Lease and Home Purchase with Portstyle Enterprises trading as BGV; and
 - ii) An agreement to Purchase a Park Home with a manufacturer nominated by Portstyle Enterprises.

2) Market

- a) The market in which the proposed matter relates is the residential real estate market in the Albany but more particularly the provision of transportable homes within this market.

3) Analysis of Conduct

- a) The proposed matter described in Form G is exclusive dealing within the particulars of the Act. Portstyle Enterprises submit that there is no likely detriment to the public resulting from that conduct.
- b) The proposed conduct does not have the effect of substantially lessening competition in the related market as the BGV (comprising 71 home sites, with Stage 1 being 21 homes) represents a very small proportion of the residential real estate available in the Albany and wider Great Southern Region.
- c) The proposed conduct offers significant benefits to purchasers of the transportable homes in that:
 - i) Economies of scale dictate that the manufacturing of the homes will be significantly cheaper and delivered more efficiently than individually negotiated contracts with several manufacturers;
 - ii) There will be more efficient use of resources on the project resulting in lower cost of the product provided to the purchaser;
 - iii) There will be a consistent standard of design, style and construction for each the individually owned homes for BGV; and

- iv) Use of a single manufacturer and a standard agreement to purchase contract for all the homes enables the supply of better information to purchasers so that they can make informed choices about the home, the manufacturer and the purchase contract.

4) Summary

- a) In light of the matters noted above, Portstyle Enterprises submits that the proposed conduct provides benefit to the public and will have no anti-competitive effect and therefore no public detriment.
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