

FILE No:	
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AUST COMPETITION & CONSUMER COMMISSION BRISBANE
2 JUL 2014

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)

N97544 Daleswan Pty Ltd ACN 105 650 075 (**Daleswan**)

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

Daleswan carries on the business of developing a very large master-planned community in the Ripley Valley, Queensland known as Providence Heart & Soul of the Valley (**Providence**).

- (c) Address in Australia for service of documents on that person:
 c/- Cooper Grace Ward Lawyers
 Attention: Marcus Ford
 GPO Box 834
 BRISBANE QLD 4001

2. Notified arrangement

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

The goods to which this notice relates is the proposed sale of residential home and land packages at Providence.

Providence will be developed in a number of stages. The development of Stages 1 to 3 of Providence commenced in the second quarter of 2014, and will comprise 193 residential lots once complete.

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

Daleswan is the registered owner of land in Providence. Daleswan proposes to enter into agreements with:

- (a) Centenary Builders Pty Ltd ACN 160 509 848;

- (b) Alliance Homes Pty Ltd ACN 103 729 988
 - (c) Bold Properties (Qld) Pty Ltd ACN: 127 545 804
 - (d) Metricon Homes QLD Pty Ltd ACN 005 149 137
- (each a **Builder**, and together the **Builders**).

It is intended that under this agreement the Builders will have the exclusive right to construct residential homes on between an aggregate of 65 to 105 residential lots (**specified lots**) within Stages 1 to 3 in Providence (**proposed arrangement**).

Under the proposed arrangement, a purchaser entering into a contract to purchase one of the specified lots will do so on the basis that the purchaser also enters into a building contract with a Builder to construct their home on that lot.

(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)

The class of persons likely to be affected by the proposed arrangement are consumers seeking to purchase a specified lot in stages 1 to 3 of Providence until all of the specified lots are sold.

- (b) Number of those persons:

- (i) At present time:

Unknown. Lots in Providence are available to the general public.

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

It is estimated that up to 100 persons will acquire lots at Providence within the next year.

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

Unknown at this stage.

4. Public benefit claims

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

Purchasers of specified lots will:

- receive the benefit of obtaining a new home in a residential estate for a fixed price;
- will not be required to expend further time or costs in obtaining separate services for design and construction of a residential dwelling;
- the proposed arrangement may provide the Builders with certainty of volume of work providing it with the opportunity to decrease its supply costs.

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

- there is no obligation on the purchaser to purchase land from Daleswan, nor to use a Builder for the construction of a home outside of specific lots within Providence.
- the proposed arrangement will not decrease competition in the relevant market as there are several other options for purchasing homes within the relevant market, including by purchasing a house and land separately.

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 market likely to be affected by the proposed arrangement is the market for residential homes in the Ripley Valley, Queensland.

There is another supplier of residential homes and land within the relevant market. The other supplier in the relevant market offers strong competition to Providence regarding the supply of residential house and land packages.

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)

Daleswan considers that there would be a negligible public detriment resulting from the proposed arrangement in the relevant market.

Daleswan does not consider that the proposed arrangement will have any negative effect on the prices of home and land packages in the relevant market.

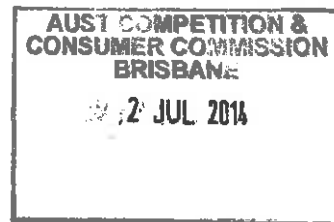
(b) Facts and evidence relevant to these detriments:

- The Builders are registered and licensed in the state of Queensland.
- The proposed arrangement will have a negligible effect on competition because consumers will only be required to use a Builder to build their home at Providence in relation to specified lots, however there are several other options for purchasing homes within the relevant market, including by purchasing a house and land separately;
- Not all lots in Providence will be sold on the condition that the purchaser uses one of the Builders.
- The proposed arrangement in no way limits the genuine choice of consumers as there is another supplier in the relevant market from which consumers can choose to obtain building services for the building of their home at Providence.
- Purchasers of the specified lots will avoid the uncertainty of overall costs for the construction of a home on their lot through the purchase of a house and land package.

7. Further information


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

c/- Marcus Ford
Cooper Grace Ward Lawyers
Level 21 400 George Street,
Brisbane QLD 4000



Dated..... 11/7/14

Signed by/on behalf of the applicant

.....


(Signature) **Marcus Ford**

Partner, Cooper Grace Ward Lawyers

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.