

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)

N98188

Wendy Scroggie, Development Manager, Warralily Armstrong Creek on behalf of Armstrong Creek Development Corporation Pty Ltd ("ACDC") of 501 Blackburn Road, Mt Waverley, Victoria, 3149

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

ACDC is a property development firm and also the owner of the residential land development known as Warralily Armstrong Creek.

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

Armstrong Creek Development Corporation
501 Blackburn Road
Mt Waverley 3149

FILE No:
DOC:
MARS/PRISM:

2. Notified arrangement

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

Contracts for the sale of three house and land packaged residential lots (lots 10132 - 10134 within Stage 101 is proposed Plan of Subdivision No PS732885W (Plan) (Annexure B)) at Warralily, Armstrong Creek and being part of the land described in Certificates of Title Volume 10686 Folio 121.

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

ACDC are the registered proprietors of the Development land.

ACDC has entered into a development agreement with Eight Homes Pty Ltd which gives Eight Homes the exclusive right to construct residential

town houses on three lots within the Development, which is to be sold to consumers as a house and land package. It is proposed that there will be approximately 3 town house lots in total in the Development (“proposed conduct”).

Under the proposed conduct, a person entering into a contract with ACDC to purchase land in the Development will do so on the basis that the purchaser is also required to enter into a building contract with Eight Homes to construct a home and improvements on the lot in accordance with a prescribed building contract.

A copy of the proposed contract of sale and building contract is attached as "**Annexure A**".

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)

Purchasers of residential lots that wish to buy house and land within the Development.

- (b) Number of those persons:

- (i) At present time:

There are no purchasers at the present time.

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

ACDC hopes to enter into 3 Contracts of Sale of the Land with various purchasers which are conditional upon the purchasers entering into a Building Contract with Eight Homes.

- (iii) 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)

The Development consists entirely of detached houses. By utilising the proposed conduct, purchasers will benefit as:

- they will receive the benefit of obtaining a new home in a residential estate for a fixed price.
- the total cost to the purchaser is potentially lower than other developments because Eight Homes does not incur duties and taxes which would have occurred if a builder purchased the land and on-sold it, and subsequently passed on to the purchaser.

- the overall standard and consistency of design of the end block of seven lots within the Development is achieved, therefore preserving the resale value of each house development.
- the design of all houses within the end block is consistent and integrated, which provides economies of scale and practical consistency and again lowers the cost for purchasers to obtaining a new home.
- a consistent high standard will be achieved across the board, Eight Homes has a proven track record of providing industry leading quality of workmanship.
- by ensuring that the same builder constructs all the town houses within the end block there are also economies of scale which will further reduce the cost of construction. There are obvious economies of scale in the supply of materials, because a supplier can provide the materials for all the houses in the block, reducing delivery fees, and allowing the builder to take advantage of discounts offered for supply of larger quantities of material.
- there are economies of scale in the building in that tradesmen performing electrical, plumbing, carpentry or fit-out services can perform the work for the entire block as one job, instead of treating each dwelling as a separate job.
- there is a saving in compliance costs as inspections can be carried out for all the houses within the end block at the same time.

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

Refer Annexures A.

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 affected market consists of the purchasers of residential dwellings in the area identified as the Armstrong Creek Growth Corridor by the Victorian Growth Areas Authority (<http://www.gaa.vic.gov.au/wp-content/Assets/Files/Growth%20Corridor%20Plans%20ON%20SCREEN.pdf>), which is where the Development is also situated within, either as an investor or owner occupier ("affected market").

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 applicants consider that there would be little or no detriment to the public at large as a result of the proposed conduct in the affected market.
- The applicants do not consider that the proposed conduct would negatively affect prices of other house and land packages in the affected market

(b) Facts and evidence relevant to these detriments:

- There is no obligation on a purchaser to purchase land in the Development, in fact there are several residential estates located in the general vicinity of the Development which do not require purchasers to use Eight Homes to construct dwellings.
- The proposed conduct only affects purchasers who wish to purchase in the proposed Development.
- The proposed conduct would not affect or restrict the choice of consumers as there are many other residential estates in the affected market offering house and land packages, eg Armstrong, on Surf Coast Highway. There are many other residential estates in the Armstrong Creek Growth Corridor and within the City of Greater Geelong, offering a range of low and medium density lots, free standing houses or semi-detached townhouses for both owner occupier and investors. There are also a large range of builders operating in the Armstrong Creek Growth Corridor of Geelong who construct free standing houses and/or semi-detached townhouses.
- The proposed conduct only affects an insignificant percentage of the affected market.
- Purchasers will avoid the uncertainty of overall costs for the construction of a home on their lot by purchasing under 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:

Wendy Scroggie

Development Manager

Warralily Armstrong Creek
501 Blackburn Road
Mt Waverley 3149
Ph: 0433 598 079
Email: wendyscroggie@newland.com.au

Dated 16/3/2015

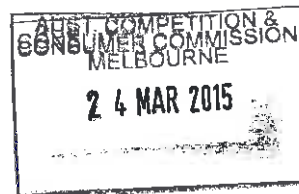
Signed by/on behalf of the applicant

Wendy Scroggie
(Signature)

Wendy Scroggie
(Full Name)

ARMSTRONG CREEK DEVELOPMENT CORPORATION
(Organisation)

DEVELOPMENT MANAGER
(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.