

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)

N99289 PEET FUNDS MANAGEMENT LTD ACN 145 992 169

- (b) Short description of business carried on by that person:
(Refer to direction 3)
Residential Land Construction, Development and Subdivision

- (c) Address in Australia for service of documents on that person:
c/o HWL Ebsworth Lawyers
Level 26, 530 Collins Street, Melbourne, Victoria 3000

2. Notified arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:
- Sale of vacant subdivided land for residential use
 - Construction of fully detached and semi-attached double storey residential homes
- (b) Description of the conduct or proposed conduct:
- Entry into contracts of sale of vacant subdivided land for residential use, conditional upon purchasers also entering into building contracts with Nostra Homes & Development Pty Ltd ACN 127 679 627 trading as Nostra Homes ('**Nostra Homes**'), for construction of fully detached and semi-attached double storey residential homes choosing from 4 different types of design and different lot sizes.
(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)
- purchasers of subdivided vacant residential land

- builders of residential homes

(b) Number of those persons:

(i) At present time:

0

(ii) Estimated within the next year:

(Refer to direction 6)

11

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

N/A

4. Public benefit claims

(a) Arguments in support of notification:

(Refer to direction 7)

Peet Fund Management Ltd ('PFML') is the registered proprietor of a vacant residential land estate known as Haven (Stage 7), Tarneit ('Estate').

The Estate contains a significant amount of land which is being developed for various residential, educational and other mixed-use purposes.

Within the Estate, Lots 725 to 735 on unregistered plan of subdivision 8011121 ('Site') is proposed for subdivision and development as affordable fully detached and semi-attached housing products to appeal to first homebuyers and other purchasers seeking a high quality affordable home.

The medium density residential dwellings on the Site will comprise of fully detached and semi-attached double storey residential housing, where these dwellings will, in many cases, share common boundaries and will otherwise be constructed on narrow or shallow lots with small overall lot sizes to maximise affordability.

Because of this, PFML has entered into detailed negotiations with a number of residential builders, with a view to nominating one single builder to construct all dwellings on the Site, to:

- ensure that fully detached and semi-attached housing can be constructed simultaneously by the one builder;
- avoid issues with construction timeframes and disruption which would arise if multiple builders were attempting to construct housing at different times;
- avoid issues with construction timeframes and disruption which would arise if multiple builders were attempting to construct housing at the same time, using different plans which may not be cohesive;
- enable the most efficient and effective construction timeframe for purchasers;
- deliver a cohesive and attractive development where purchasers can rely on the aesthetics and design controls within the development; and
- ensure that affordable first home buyer plans can be delivered through cost savings which a single builder can achieve on the Site.

As a result of these negotiations, PFML wishes to nominate Nostra Homes as its preferred builder for the Site.

Nostra Homes will provide purchasers with a choice of 4 alternative designs, distinct floor plans and layouts, as well as choices of internal specifications to ensure that purchasers have a wide variety of options, whilst still ensuring cohesive, efficient and cost-effective construction.

Nostra Homes has advised they will ensure that the aesthetic and design controls on the Site will be complied with in all construction (which provides more security for the value of purchasers' investments).

As noted above, this will create significant opportunities for economies of scale, in terms of marketing costs and expertise, and most importantly, will enable Nostra Homes to offer high value building products to potential purchasers at lowered costs, due to the savings made on committing significant resources to the project, thereby reducing input, material and labour costs, and being able to transfer these benefits to purchasers.

This will lead to affordable quality homes being constructed for what is predominantly a first home buyer market, enabling purchasers to benefit from the arrangements in purchasing their own land and constructing homes.

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

- Nostra Homes will be able to construct high value residential dwellings at lowered costs due to their economies of scale. 4 alternative layouts and designs are available, as well as different lot sizes and a choice of fixtures, fittings and internal specifications.

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)

- First Home Buyer market
- Second and subsequent Home Buyer Market
- Residential Home Builders
- Investor purchasers

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)

It is likely that no detriment will flow to the public, as potential purchasers will be seeking fully detached and semi-attached construction, and will

recognise the significant cost savings to be obtained through the use of one single builder throughout the Site. Potential purchasers will also achieve further cost savings as the fully detached and semi-attached residential homes will be constructed simultaneously by one builder resulting in a saving of overheads.

Also, no material detriment will result from the notification, as the same goods and services (ie house and land packages, separate vacant land and also residential construction products) are available within the Estate itself and at a number of alternative residential developments adjacent to and surrounding the development for which the notification is made. Therefore, the notification will not materially affect the available options comprising an approximate amount of 300 lots for purchasers in the Estate, let alone other alternatives available in the local area. Approximately 144 lots are also available in nearby estates as follows:

Estate	Number of lots for sale
Emerald Park	53
Habitat	20
The Heartlands	45
Rothwell	26

The notification will also not materially affect potential builders, as vacant land options exist within the Estate and at nearby developments, with significant levels of stock already available, or about to become available. Builders such as Metricon Homes, Porter Davis Homes, Simonds Homes, Burbank Homes and Carlisle Homes are available for selection to construct on other lots.

Therefore, because the public has significant choices in this segment of the market in this geographic region, the potential detriment is minimised.

(b) Facts and evidence relevant to these detriments:

As set out above, the Estate itself offers other vacant land opportunities and other developments in the area offer vacant land to purchasers with an unlimited choice of residential builders, as well as house and land packages with a choice of nominated builders.

7. Further information

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

Michael Mammen

HWL Ebsworth Lawyers

Level 26, 530 Collins Street, Melbourne VIC 3000

(03) 8644 3500

mmammen@hwle.com.au

Dated..... 25/08/2016

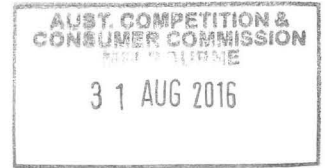
Signed by/on behalf of the applicant

..... *Michael Mammen* (Signature)

..... Michael Mammen (Full Name)

..... Partner (Organisation)

..... HWL Ebsworth Lawyers (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 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.