

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)

N99897 Ocean Springs Pty Ltd (ACN 094 357 730).

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

Acquisition, development and sale of land.

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

Level 3, 27-31 Troode Street

West Perth WA 60005

(PO Box 1346 West Perth WA 6872)

2. Notified arrangement

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

See Annexure A attached.

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

(Refer to direction 4)

See Annexure A attached.
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 Annexure A attached

- (b) Number of those persons:
 - (i) Not known
 - (ii) Estimated within the next year:
(Refer to direction 6)

Not known
- (c) 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)

See Annexure A attached
- (b) **Facts and evidence relied upon in support of these claims:**

See Annexure A attached

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 Annexure A attached

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

See Annexure A attached

7. Further information

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

Zoe Watchman
Sales Operations Manager
Satterley Property Group Pty Ltd
Level 3, 27-31 Troode Street
West Perth WA 6151

Phone: 9368 9018
Mobile: 0428 791346
Fax: 9368 9002
Email: zoew@satterley.com.au

Dated 5 September 2017

Signed by/on behalf of the applicant

Ocean Springs Pty Ltd



.....
(Signature) Director

Anthony Robert Carr

.....
(Full Name)



.....
(Signature) Director/Secretary

Rossmore James Carmichael

.....
(Full Name)

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.

ANNEXURE A

1. Ocean Springs Pty Ltd (Land Owner) is developing a residential estate known as “Eden Beach Estate” which is situated in the suburb of Jindalee, approximately 41 kilometres north of Perth and which is being developed in Stages.
2. Satterley Property Group Pty Ltd (Satterley) has been appointed by the Land Owner as the project and sales manager of the Estate.
3. Subsequent to the third line forcing notification lodged with the Australian Competition and Consumer Commission (ACCC) dated 20 March 2017, Registration Number N99599, Satterley has identified one additional residential lot, being Lot 657 Mirabilis Avenue, Jindalee currently available in Stage 7, Eden Beach Estate to be exclusively allocated to a selected builder for the purpose of creating and constructing unique and affordable house and land package.
4. Stage 7 comprises of 74 lots of which 11 are currently available and 29 lots are pending release, with the balance of lots either under offer or settled.
5. It is proposed that the additional 1 lot, together with the 7 lots the subject of the previous ACCC approval in Stage 7, will be offered to the Ventura Home Group. All lots are narrow rear loaded 7.5m frontage lots.
6. The Ventura Home Group will create unique and affordable house and land packages on the total of 8 House and Land Package residential lots in Stage 7 of the Eden Beach Estate. Satterley will work with Ventura Home Group to provide a unique and affordable housing solution to be sold to the public as house and land packages.
7. It is proposed that the builder will be able to advertise the house and land packages on the allocated lots in conjunction with Satterley. It will be a condition of the land contract that the buyers must enter into a building contract with the builder. *Prime facie*, this proposal may amount to third line forcing under the provisions of the *Competition and Consumer Act 2010 (Cth)*.
8. If the builder chooses to purchase the allocated lots, the lots will be sold to the builder at an agreed price per lot. There is currently an oversupply of generic house and land packages in the Perth metropolitan area and a growing number of land developers who are looking to provide a variety of alternate house and land products suitable for the first home buyer through to the upper market sector.
9. It is considered that the likely benefit to the public from the proposed conduct will outweigh the likely detriment to the public from the proposed conduct in that the conduct will encourage the Builder to build residences of a high standard and which will meet the Land Owner’s requirements and which are intended to be competitively priced.
10. It is considered that this proposal will not have the effect of substantially lessening competition in the market for residential land and/or building services in Jindalee or in the vicinity of the Estate given that there are 24 lots currently available within Eden Beach Estate and a further 167 lots pending release in the development which can be sold without restriction. Buyers who do not wish to be limited in their choice of Builder have the opportunity to purchase another lot (without restriction) within the Eden Beach Estate or estates in nearby suburbs.
11. The proposal provides for the most affordable house options predominately targeted to the first home buyer, which is beneficial to the community.

12. Satterley and the Land Owner will not receive any fee, commission or other financial reward in relation to the building contracts to be entered into between the Builder and buyers of the House and Land Package Lots.