

25 OCT 2017

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)

N100014 WAKERLEY 1 PTY LTD ACN 139 994 353 (Applicant)

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

The Applicant (in conjunction with related parties) carries on the business of developing residential land and housing. The Applicant and related parties is developing residential land at Circa 1886, Grices Road Clyde North Vic 3978 (Estate).

- (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 and services to which this notice relates are the proposed sale of approximately 5 residential home and land packages at the Estate.
The development at the Estate is approximately 80% sold.
Upon completion, the Estate will comprise approximately 900 lots. It is expected that the Estate will be completed over the next 1 year.

(b) Description of the conduct or proposed conduct:

The Applicant is the registered owner of land in the Estate. The Applicant proposes to enter into an agreement with VOLUME BUILD PTY LTD ACN 139 048 034 (Builder) in which it intends to give the Builder the exclusive right to construct residential homes on 5 residential lots which form part of the Estate (proposed arrangement).

Under the proposed arrangement, a purchaser entering into a contract to purchase particular lots will do so on the basis that the purchaser also enters into a building contract with the Builder to construct a home on their 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 persons likely to be affected by the proposed arrangement are consumers seeking to purchase residential land in the Estate between the dates of the date of authorisation by the ACCC until these lots are sold, and who require building services for that lot.

(b) Number of those persons:

(i) At present time:

Unknown.

(ii) Estimated within the next year:

(Refer to direction 6)

Unknown.

(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)

Purchasers of these lots will receive the benefit of obtaining a new home in a residential estate for a fixed price and not be required to expend further cost in obtaining separate services for design and construction of a residential dwelling. The Builder will not be required to pay duty on the purchase of the residential lot, as such, this cost will not be passed onto the purchaser. The proposed arrangement will provide the Builder with certainty of volume of work providing it with the opportunity to reduce supply costs.

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

There is no obligation on the purchaser to purchase land from the Applicant nor to use the Builder for the construction of a home outside specific lots within the Estate. The proposed arrangement will not decrease competition in the relevant market as there are several other developers offering house and land packages in the relevant market.

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 Clyde North Victoria.

There are a number of suppliers in the market referred to, with a number of developers and builders operating in Clyde North Victoria. The other suppliers in this market offer strong competition to the Estate 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)

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

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

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

The Builder is a registered and licensed builder in the State of Victoria, with a proven track record. The proposed arrangement will have a negligible effect on competition because consumers will only be required to use the Builder to build their home at the Estate in relation to certain lots.

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/- Cooper Grace Ward Lawyers
Attention: Marcus Ford
GPO Box 834
Brisbane Qld 4001

Dated, 24 October 2017

Signed by/on behalf of the applicant

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(Signature)

Marcus Roy Ford

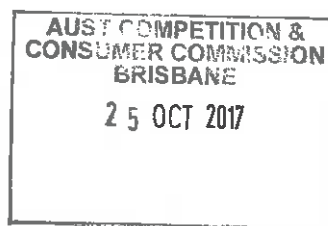
(Full Name)

Cooper Grace Ward Lawyers

(Organisation)

Partner

(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.