

25 OCT 2017

CANBERRA

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 in 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)

N100010 **Lot 501 Pty Ltd ACN 137 324 022**

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

The applicant is delivering a sixty (60) allotment residential dwelling project at Prospect in the State of South Australia, with the project name Prospect 1838 Townhouses

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

**C/- Mr Adam Ludlow
Finlaysons Lawyers
Level 8, 81 Flinders Street
Adelaide SA 5000**

2. Notified arrangement

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

The proposed arrangement relates to the sale of sixty (60) allotments within the project described above and as shown on the plan contained in Annexure A.

- (b) Description of the conduct or proposed conduct:
(Refer to direction 4)

The applicant (as vendor) will only agree to sell a proposed allotment to a potential purchaser on the condition that the purchaser enters into a certain building contract with STM Building Pty Ltd ACN 166 522 836 (*Builder*) as the builder

whereby the Builder will undertake the construction of a residential dwelling on the allotment in accordance with the building contract and the plans, drawings and specifications attached to it.

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 who enter into a Land Sale Contract with the applicant (as vendor) for the purchase of a proposed allotment delineated on the plan contained in Annexure A.

- (b) Number of those persons:

- (i) At present time:

Unknown

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

Approximately sixty (60) purchasers (but such purchasers could be one or more individuals) of the proposed sixty (60) allotments will be affected by the notified conduct within the next year, as the allotments have a target settlement date of around June 2018.

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

The identities of the potential purchasers are currently unknown.

4. Public benefit claims

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

The applicant respectfully considers that the wider community will benefit by having a fully integrated house and land option that ensures:

- 1. Built form cost efficiencies;**
- 2. Affordability;**
- 3. Greater housing stock; and**
- 4. High quality design and build.**

The residential dwellings will be constructed in accordance with plans, drawings and specifications that ensure that those dwellings are desirable, well-designed and complimentary to the desired character of the development zone within which they are situated, and which will ensure all sixty (60) dwellings will be built within a reasonable time of each other to ensure a consistency of appearance for the development and allotment owners generally.

Further, there are numerous builders available in South Australia who specialise in the construction of residential dwellings. The applicant respectfully considers that the market for the construction of residential dwellings is competitive and the proposed arrangement facilitates the construction of a desirable residential development as a whole which will benefit the wider community through providing a highly presentable and unique development which will also assist purchasers in maintaining a value for their dwelling due to a consistency of appearance and building style.

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

The plans, drawings and specifications of the residential dwellings to be constructed evidence the public benefit claims outlined above. However these documents contain commercially sensitive information and cannot be published on the public register.

<http://www.realestate.com.au/buy/property-land-in-sa/list-1>

Please see above link to Australia's leading property website, realestate.com.au which showed in excess of 5,952 vacant land blocks available for sale in South Australia as at 31 August 2017.

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 relevant markets to be affected by the proposed conduct are the markets for the development, construction and purchase of new residential dwellings in the South Australia.

The applicant respectfully considers that potential purchasers of developed or undeveloped residential land have a wide choice of properties to purchase within vicinity of the land to be developed and South Australia generally, and the restriction of the use of builder for the construction of residential dwellings on only sixty (60) allotments does not limit that choice.

The applicant respectfully considers that the competitors of the Builder in the residential dwelling construction industry will suffer no detriment as a result of the restriction requiring purchasers to engage the relevant building contractor for the construction of the sixty (60) residential dwellings at Prospect in the State of South Australia.

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 respectfully considers that limited or no public detriment will result from the proposed conduct as potential purchasers of the undeveloped land have an abundance of alternative developers and vendors to purchase undeveloped land from and an abundance of building contractors to engage to undertake works on those alternate land parcels.

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

<http://www.realestate.com.au/buy/property-land-in-sa/list-1>

Please see above link to Australia's leading property website, realestate.com.au which showed in excess of 5,952 vacant land blocks available for sale in South Australia as at 31 August 2017.

7. Further information

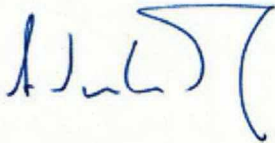
- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

**Mr Adam Ludlow, Finlaysons Lawyers, solicitor for the applicant
Finlaysons Lawyers of Level 8, 81 Flinders Street, Adelaide SA
5000**

Phone 08 8235 7827 Fax 08 8235 2944 Email
adam.ludlow@finlaysons.com.au

Dated: 20th day of October 2017

Signed by/on behalf of the applicant:



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Signature of Adam Ludlow, Finlaysons Lawyers
Solicitor for the applicant
Finlaysons Lawyers of Level 8, 81 Flinders Street, Adelaide SA 5000

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 PLAN

