
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.

1 Applicant

(a) Name of person giving notice:

Greenfields Development Company No.2 Pty Ltd (ACN 133 939 965) (**GDC2**).

(b) Short description of business carried on by that person:

GDC2 is part of a corporate group which provides residential and commercial development services in the residential subdivision at Oran Park, NSW 2567 (**Oran Park**), including but not limited to the sale of residential land to the public.

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

c/- Marsdens Law Group
PO Box 291
Campbelltown NSW 2560
Attention: Peter Crittenden

2 Notified arrangement

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

The sale of residential lots of land at Oran Park (**Lots**).

(b) Description of the conduct or proposed conduct:

GDC2 proposes to supply individual Lots to purchasers on the condition that they enter into a contract for residential construction services with an 'appointed builder' for a relevant Lot (**Appointed Builder**).

As of the date of this application, GDC2 currently nominate each of the following Appointed Builders as listed in **Annexure A**.

GDC2 will, subject to appropriate approvals, seek to engage/add other Appointed Builders in the future.

GDC2 proposes to refuse to supply the Lots to purchasers for the reason that the purchaser has not entered into, or has not agreed to enter into, a contract for residential construction services for the relevant Lot with an Appointed Builder.

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:

Potential purchasers of the Lots and the Appointed Builders.

(b) Number of those persons-

(i) At present time:

Zero

(ii) Estimated within the next year:

500

(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:

GDC2 submits that the proposed conduct gives rise to a number of public benefits, including but not limited to:

1. **(Reduced search and transaction costs).** By GDC2 nominating the Appointed Builders, search and transaction costs for potential purchasers, who might otherwise have to spend time and money obtaining and considering a number of proposals from a variety of builders, will be reduced. GDC2 will carefully nominate each of the Appointed Builders to ensure that they have appropriate experience/expertise in residential construction services and are reasonably cost efficient in the products that they offer.

Importantly, each of the Appointed Builders will have a diverse range of products and designs to enable the purchasers a variety of options in constructing a dwelling on the Lots.

2. **(Design Consistency).** The proposed conduct will provide the benefit to current owners in Oran Park, along with potential purchasers, of aesthetic consistency throughout the development.

GDC2 will ensure that consistency is achieved by the Appointed Builders by ensuring that they comply with any design guidelines or purchasers covenants contained in the agreement for the sale of the Lots.

The design guidelines and purchasers covenants will not only regulate the design plans, building materials and landscaping that can be universally implemented throughout Oran Park, but also reduce the amount of Lots which remain as vacant land for prolonged periods and deter buyers who wish to buy the Lots for the purpose of selling them shortly thereafter for a profit.

GDC2 are confident that each of the Appointed Builders will be able to consistently adhere to any design guidelines and purchasers covenants to a high standard. This will eventually correlate in increasing the value of all of the Lots in Oran Park.

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3. **(Quality Assurance)**. In order to provide the purchasers and wider community with greater assurances of a 'quality' construction process and product, GDC2 will undertake a thorough process in approving an Appointed Builder. This will offer purchasers further comfort that they are engaging with a reputable builder who has experience in residential construction and the requirements of Oran Park.
 4. **(Reduction in Compliance Measures)**. In accordance with the relevant design guidelines or purchasers covenants that apply in Oran Park, GDC2 are required to take certain measures in enforcing compliance with construction requirements. This involves GDC2 being required to register caveats over Lots and to correspond with purchasers regarding non-compliance. The proposed conduct will reduce these measures, and therefore alleviate pressure on future purchasers noting that the Appointed Builder will be far more likely to comply with the design guidelines and purchasers covenants.
 5. **(Opportunity for Appointed Builders and other builders)**. The proposed conduct will provide an opportunity for Appointed Builders to have increased exposure and opportunity to obtain work within Oran Park. GDC2 will continually review and encourage further builders (of all sizes and locations) to seek approval to become an Appointed Builder.
 6. **(Better Street coordination and increase in tree canopy)**. The Appointed Builders will be able to work with GDC2 to coordinate driveway location and protection of street trees. By coordinating with the Appointed Builders, GDC2 expect to increase tree canopy by 30% which will assist in reducing the heat island effect in Western Sydney.

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

See above.

5 Market Definition

- (a) 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):

The likely market/s affected would include:

- (i) the market for the supply of residential land in the South-West Sydney area, particularly the Camden Local Government Area; and
- (ii) the market for the supply of residential construction services in the South-West Sydney area, particularly the Camden Local Government Area.
- (iii) The number of Appointed Builders covers more than 80% of the current market in the vicinity of Oran Park

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:

GDC2 submits that the proposed conduct will have little to no public detriment on the basis that all persons impacted by the proposed conduct will be fully aware of the

process, and for builders that are not an Appointed Builder, be provided the opportunity to submit an application to become so.

GDC2 do not believe that the proposed conduct will have a likely effect in increasing the price of goods or services (either costs of the land or construction) on Oran Park or other surrounding residential developments.

Purchasers who do not wish to appoint an Appointed Builder will also have the freedom to purchase from a number of surrounding residential subdivisions in the Camden Local Government Area or within the wider South West Sydney corridor.

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

See above.

7 Further information

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

Marsdens Law Group
PO Box 291
Campbelltown NSW 2560
Attention: Peter Crittenden
Phone: [REDACTED]

8 Execution

Dated: 26 November 2021

Signed by/on behalf of the applicant giving notice

[REDACTED]
(Signature)

Jacob Mitchell

(Full Name)

Marsdens Law Group

(Organisation)

Solicitor for the Applicant

(Position in Organisation)

Annexure A – Appointed Builders:

Bell River Homes Pty Ltd ACN 062 307 779
Brolen Homes Pty Ltd ACN 167 001 210
Camelot Home Pty Ltd ACN 099 824 674
Champion Home Sales Pty Ltd ACN 082 497 247
Clarendon Land Pty Ltd ACN 608 797 968
Creation Homes Group Pty Ltd ACN 628 777 006
Dartanyon Pty Ltd ACN 078 565 714
Domaine Homes (NSW) Pty Ltd ACN 080 788 969
Eden Brae Holdings Pty Ltd ACN 083 807 489
Everyday Homes Pty Ltd ACN 002 079 674
Fairmont Sales NSW Pty Ltd ACN 628 475 187
Firststyle Homes Pty Ltd ACN 087 773 779
Fowler Homes Pty Ltd ACN 066 046 366
Kurmond Homes Pty Ltd ACN 128 821 198
Kaplan Homes ACN 118 504 000
Masterton Homes Pty Ltd ACN: 002 873 047
McDonald Jones Homes Pty Ltd ACN: 089 524 050
Metricon Homes Pty Ltd ACN 005 108 752
Mojo Homes Pty Ltd ACN 166 754 696
Montgomery Homes Pty Ltd ABN 57 069 964 236
Nu-Era Homes Pty Limited ABN 34 002 306 765
New Living Homes Pty Ltd ACN 152 611 713
Rawson Homes Pty Ltd ABN 67 053 733 841
Thrive Homes Pty Limited ACN 613 679 333
Trend Connection Pty Ltd ACN 101 504 205
Wisdom Properties Group Pty Ltd ACN 089 425 829
Samaro Homes Pty Ltd ACN 152 934 819
Sekisui House Australia Pty Ltd ACN: 135 313 236