

Notification of Exclusive Dealing

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1)(a) of the *Competition and Consumer Act 2010* (Cth) of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47 (2), (3), (4), (5), (6), (7), (8) or (9), of that Act in which the person giving notice engages or proposes to engage.

Notifying Party

1 Provide details of the notifying party, including:

- | | | |
|-----|--|--|
| 1.1 | Name | Golden Sedayu Pty Ltd (Golden Sedayu) |
| | ACN | 647 974 794 |
| | Address | 236 Adelaide Terrace, Perth WA 6000 |
| | Phone Number | [REDACTED] |
| 1.2 | Contact Person | Andrew Sugiaputra |
| 1.3 | Description of business activities | Golden Sedayu is a residential property developer and intends to deliver 1,200 apartments and 186 townhouses to be constructed on part of the land comprising Lot 102 on Deposited Plan 72026 being the whole of the land in certificate of title Volume 2776 Folio 542 (Land). |
| 1.4 | Email Address for service of documents in Australia | [REDACTED] |

2 Details of the notified conduct

The notified conduct is for exclusive dealing under section 47 of the *Competition and Consumer Act 2010* (Cth).

3 Provide details of the notified conduct including:

3.1.1 a description of the notified conduct

The Land will be developed to construct and deliver a total of 186 townhouses as part of a development called Burswood Point (**Burswood Point**).

Golden Sedayu intends that:

- up to 50% of the 186 townhouses will be sold on the basis that Golden Sedayu supplies the lot and a condition of the sale is that the buyer enters into a construction delivery and services agreement (**CDSA**) with Burswood Point Homes Pty Ltd ACN 649 664 620 (**Consultant**). The Consultant is a separate but related entity to Golden Sedayu. Under the terms of the CDSA, the Consultant will enter into a contract with a 3rd party builder for the delivery of the relevant townhouse (**Package 1**); and
- the remaining townhouses are sold as traditional house and land packages on the basis that Golden Sedayu supplies the lot and a condition of the sale is that the buyer enters into a building contract with one, or a handful of, 3rd party builders nominated by Golden Sedayu for the delivery of the relevant townhouse (**Package 2**),

(collectively, the **Packages**).

The arrangements contemplated in the Packages involves the supply of goods or services **on the condition** that restrictions are imposed on the customer's or supplier's freedom to choose with whom, where or on what terms it may conduct business.

3.1.2 any relevant documents detailing the terms of the notified conduct

Not applicable.

3.1.3 the rationale for the notified conduct

The rationale for electing the same or one of a handful of builders is to ensure that the townhouses provided pursuant to the Packages are constructed and managed in a cohesive manner and that all elements of the construction of each townhouse are appropriately integrated and complement one another as well as the desired character of the development, streetscapes and surrounding areas. This will ensure consistency, quality and integrity of design which will enhance the overall aesthetic and cohesiveness of the Burswood Point development.

3.1.4 any time period relevant to the notified conduct.

Unknown – conduct is proposed.

4 Provide documents submitted to the notifying party's board or prepared by or for the notifying party's senior management for purposes of assessing or making a decision in relation to the notified conduct and any minutes or record of the decision made.

Not applicable.

5 Provide the names and/or a description of the persons or classes of persons who may be directly impacted by the notified conduct (including targets in collective bargaining or boycott conduct) and detail how or why they might be impacted.

Purchasers who enter into a contract with Golden Sedayu for the purchase of one of the Packages.

The identities of the potential purchasers are currently unknown.

Market information and concentration

6 Describe the products and/or services, and the geographic areas, supplied by the notifying parties. Identify all products and services in which two or more parties to the notified conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer).

The relevant markets are the residential land supply market in the Perth metropolitan area and the building industry in Western Australia.

Golden Sedayu considers that potential purchasers of developed residential land have a wide choice of properties to purchase within the metropolitan area and surrounding suburbs of Perth and Western Australia generally, and any restriction on the ability to select a builder in respect of 186 townhouses in one development does not substantially limit that choice in any material way.

Further, Golden Sedayu submits that the competitors of Golden Sedayu in the residential property market will suffer no detriment as a result of the proposed conduct, given the number of other dwellings for sale in the region.

7 Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.

The proposed conduct will occur in the context of the residential property market in the Perth metropolitan region of Western Australia. There is strong competition in the Perth metropolitan residential market, with numerous competing residential estates and a strong existing market for established dwellings.

8 In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.

The proposed conduct will affect a very small share of the relevant market (with only 186 townhouses sold as part of the Packages to be affected by the proposed conduct).

Accordingly, the impact of the proposed conduct on the residential land supply market in the Perth metropolitan area is minimal.

9 In assessing a notification, the ACCC takes into account competition faced by the parties to the proposed conduct. Describe the factors that would limit or prevent any ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously. For example, describe:

9.1.1 existing competitors

9.1.2 likely entry by new competitors

9.1.3 any countervailing power of customers and/or suppliers

9.1.4 any other relevant factors.

On the basis that the proposed conduct will have minimal impact on the residential land supply market in the Perth metropolitan area, it is submitted that there would not be any ability for the parties involved in the proposed conduct to raise prices, reduce quality or choice, reduce innovation, or coordinate.

Public benefit

10 Describe the benefits to the public that are likely to result from the notified conduct. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.

The proposed conduct will ensure consistency, quality and integrity of design which will enhance the overall aesthetic and cohesiveness of the Burswood Point development and surrounding areas.

Purchasers of the Packages will also benefit from:

- increased affordability as a result of reduced transfer duty payable on the basis that in engaging the Consultant by way of the CDSA or a builder directly, the structure of the Packages means that buyers will only pay transfer duty on the land cost (as opposed to paying transfer duty on the land and townhouse cost if the townhouse was sold to buyers once completed);
- minimising cost uncertainty as the overall cost of the Packages will be known upfront at the time of entering into the relevant contract; and
- in terms of the Package 1, scale efficiencies in terms of construction costs obtained by the Consultant engaging the same builder in respect of a number of townhouses.

Public detriment (including likely competitive effects)

- 11 Describe any detriments to the public that are likely to result from the notified conduct, including those likely to result from any lessening of competition. Provide information, data, documents, or other evidence relevant to the ACCC's assessment of the detriments.**

Golden Sedayu submits that no public detriment will result from the proposed conduct as potential purchasers of the townhouses have the choice of many alternative developers and vendors to purchase land (both developed and undeveloped) in the Perth metropolitan region and the Packages being offered are unlikely to substantially lessen competition. Additionally, by number of dwellings the townhouse component of Golden Sedayu's development only reflects a small proportion of the total number of dwellings.

Contact details of relevant market participants

- 12 Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties, such as actual or potential competitors, customers and suppliers, trade or industry associations and regulators.**

The identities of the potential purchasers are unknown.

Given the limited impact of the proposed conduct Golden Sedayu submits that there are unlikely to be any interested parties that would be affected by the proposed conduct.

Any other information

- 13 Provide any other information you consider relevant to the ACCC's assessment of the notified conduct.**

Declaration by notifying party

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).


Signature of Andrew Williem Sugiaputra

Director of Golden Sedayu Pty Ltd

Office held

Date: 1 July 2021