

No /

TRADE PRACTICES ACT 1974

UNDERTAKING TO THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
GIVEN FOR THE PURPOSES OF SECTION 87B

BY

TRINNON PTY LTD ACN 062 677 418

BACKGROUND

1. Trinnon Pty Ltd ACN 062 677 418 ("Trinnon") is the owner and developer of a development known as "The Mediterranean" at North Burleigh in the State of Queensland ("the Development").
2. Trinnon has advertised the Development by distribution on the Gold Coast of brochures that contain a photograph of the Development against the background of a wide angle photograph of North Burleigh Beach in the State of Queensland. The brochures were distributed in the Gold Coast Bulletin newspaper on 24 December 1995 and in the Gold Coast edition of the Australian newspaper on 24 and 31 December 1995 and 7 January 1996.
3. Following receipt of a consumer complaint, the Australian Competition and Consumer Commission conducted an investigation and has reached the view that Trinnon has contravened the Trade Practices Act 1974 ("the Act"). The Commission considers that Trinnon contravened section 53A of the Act by depicting the Development in the brochures as having an absolute beach frontage.
4. In February 1996 the Commission brought to Trinnon's attention its view that the representations referred to in paragraph 3 above contravened provision of the Act. Representatives of the Commission and Trinnon have met to discuss the Commission's view.
5. Trinnon states that it has now ceased the conduct referred to in paragraph 3 above.

UNDERTAKINGS

6. Trinnon hereby undertakes for the purposes of section 87B of the Act:
 - (a) that it will not, in trade or commerce, make a false or misleading representation concerning the location or characteristics of land;
 - (b) that it will publish, within 1 month from the date of notification to Trinnon of acceptance of this undertaking by the Commission, in the Australian and the Gold Coast Bulletin newspapers a one-eighth page advertisement in the form annexed hereto, subject only to such variations as may be agreed by the Commission in writing;
 - (c) that it will:
 - (i) within 3 months of the signing of this undertaking, develop and submit to the Commission for its consideration a draft trade practices compliance program with the following characteristics and attributes and to achieve the following objectives:

Aim

To create a culture of compliance within, and to prevent, so far as is reasonably possible, any contraventions of the Act by Trinnon or by its directors, employees or agents.

Policy

The formal adoption, or reaffirmation by Trinnon, of a policy of strict compliance with both the letter and spirit of the Act within Trinnon and the adoption, or reaffirmation, and enforcement of sanctions against any director, employee or agent who is knowingly or recklessly concerned in a contravention of the Act.

Compliance Infrastructure

The appointment of an appropriately qualified senior executive as the compliance officer for Trinnon with overall responsibility for trade practices compliance.

Coverage

The compliance program will cover the following personnel:

- (A) James Raptis (director);
- (B) Ian John Morrison (director);
- (C) Guy Richardson (marketing manager); and
- (D) John Narramore (sales manager),

and other directors, employees and agents of Trinnon from time to time whose duties could result in them being concerned in conduct that might breach the Act ("Relevant Staff").

Education

Development and implementation of an education program calculated to have Relevant Staff conversant with the provisions of the Act to a level where:

- (A) general staff can avoid obvious contraventions and can identify more complex potential trade practices problems for referral to the appropriate person in Trinnon's compliance infrastructure;
- (B) persons with responsibilities within Trinnon's compliance infrastructure can effectively carry out those responsibilities; and
- (C) Trinnon's compliance officer can address more complex trade practices issues and (if that person is not legally qualified and able to give the relevant advice) identify issues which require referral to its solicitors.

- (ii) make whatever changes to the draft program that the Commission may reasonably require and will then prepare and submit to the Commission a trade practices compliance program which shall be a document comprising the draft program with all changes required by the Commission incorporated therein.

- (iii) implement the trade practices compliance program within 3 months of the Commission advising of the changes it requires to the draft program and that the trade practices compliance program will remain in force, subject to the requirements of paragraph 11 for a minimum period of 2 years from the signing of this undertaking; and
- (iv) for the period of 12 months following the signing of this undertaking have Trinnon's advertisements checked by its solicitors prior to publication with a view to ensuring that any advertisements comply with all requirements of the Act. Trinnon will notify the Commission of its solicitors from time to time, will cause them to prepare a written report on the checks conducted within 14 days of the end of each 3 month period and will forward a copy of such report to the Commission immediately upon receipt.


REVIEW OF THE TRADE PRACTICES COMPLIANCE PROGRAM

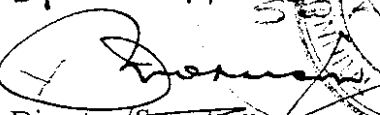
7. At the end of each 12 month period following the signing of this undertaking, until the second anniversary of the signing of this undertaking Trinnon will cause an independent auditor (who shall be an independent accountant or solicitor approved by the Commission) to review and report on:
 - (a) Trinnon's compliance with these undertakings over the preceding 12 months;
 - (b) implementation of the trade practices compliance program and the achievement of its objectives over the proceedings 12 months; and
 - (c) any recommended changes to the trade practices compliance program that may be necessary to ensure achievement of its objectives.
8. Trinnon will cause the independent auditor to complete the review and to provide a copy of his or her report to Trinnon and to the Commission within 30 days of the end of each 12 month period.
9. Trinnon will incorporate into the trade practices compliance program, and implement as part of that program, all changes to it that are recommended by the independent auditor in his or her report and are also approved by the Commission in writing.

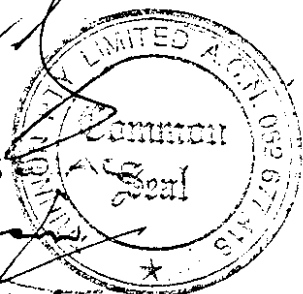
ACKNOWLEDGMENTS

10. Trinnon acknowledges that the Commission will make this undertaking available for public inspection.
11. Trinnon further acknowledges that this undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.
12. Trinnon further acknowledges that the reports referred to in paragraph 8 and the trade practices compliance program as enforced from time to time will be held with this undertaking on a public register.
13. Trinnon further acknowledges that the Commission reserves its rights to examine and pursue any subsequent complaints which it may receive from purchasers of units in the Development who may have been misled by the alleged conduct.

IN WITNESS of these undertakings and its agreement the common seal of TRINNON PTY LTD ACN 062 677 418 was affixed by authority of the board of directors in the presence of:


 Director
JAMES RATTIS


 Director/Secretary
John Morrison



This 15 day of November 1996.

ACCEPTED by:

THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION pursuant to section 87B of the Trade Practices Act 1974 in the presence of:

Chairman



This 27 day of November 1996.

[ADVERTISEMENT]

CORRECTION

Following complaint made to the Australian Consumer and Competition Commission, the Commission brought to the attention to Trinnon Pty Ltd, the developer of "The Mediterranean" apartments at North Burleigh, that advertisements published by Trinnon Pty Ltd may have been understood to convey the impression that the development has absolute beach frontage. The development does not have absolute beach frontage as the North Burleigh Esplanade is between the development and North Burleigh Beach.

Trinnon Pty Ltd regrets any inconvenience that has resulted from the advertisements.