



SHIRE OF CAPEL

**Submission to the Economics and Industry Standing Committee enquiring into the conduct of Ironbridge Holdings Pty Ltd at 'The Tuarts' Estate Dalyellup.**

The Shire of Capel whilst not directly involved or able to legally become involved in the dispute between Ironbridge Holdings and land purchasers at 'The Tuarts' estate, Dalyellup, was subject to a number of contacts from land purchasers seeking Council to intervene and assist in resolving the non delivery of landscaping and fencing packages.

The late or non-delivery of items offered to land purchasers under the 'incentive packages' arrangement was directly related to the company's cash flow problems and its inability to pay contracts within a reasonable time of completing initial works or in fact paying them at all, especially in regards to fencing and landscaping in the early stages of development. This then resulted in reluctance by contractors to undertake works further down the track, unless they were paid in advance, for fear of them also not receiving payment for works completed. It was also suggested to the Shire of Capel that funds from the sale of lots at 'The Tuarts' estate was diverted to other Ironbridge Holdings estates to allow for works to be completed. Whilst this is not illegal and is possibly an acceptable property developer process, the conclusion reached by land owners, correctly or not, was that this action contributed to cash flow problems and Ironbridge Holdings inability to fulfill its 'incentive packages' commitments.

Land purchasers in an endeavour to resolve the fencing and landscaping issues moved to undertake the works themselves or engage contractors to complete the works on the promise that Ironbridge would reimburse the agreed landscaping and fencing package costs on completion. Similar to the inability to pay contractors the land owners were also unable to successfully source their reimbursement of costs.

This resulted in a total breakdown in confidence in the ability of Ironbridge Holdings to honour their fencing and landscaping package commitments resulting in a very disillusioned section of the community and a complete drop in sales of lots in that section of the estate due to a lack of confidence in Ironbridge Holdings being able to meet any commitments it made to potential land purchasers.

Whilst the Shire of Capel also experienced problems in accessing funds from Ironbridge Holdings to pay outstanding accounts it was able to eventually leverage funds from the company due to Council's ability to refuse to issue clearance for subdivided lots where all conditions had not been met.

As indicated above the issue of the non delivery of 'incentive package' commitments appears to be directly related to:

1. Ironbridge Holdings experiencing cash flow problems and the diverting of 'The Tuarts' estate funds elsewhere; and
2. The lack of suitable redress for buyers of lots as a result of the late or non-delivery of 'incentive packages'.

Therefore in order to address these issues and ensure that residential land and property developers do not fail to meet their 'incentive packages' obligations in the future, the Shire of Capel would recommend that the State Government give consideration to amending relevant legislation to allow for the following.

1. That where residential land and property developers offer 'incentive packages' as part of the purchase of land they be required to undertake relevant works within a set period of the 'Offer and Acceptance' contract being signed by both parties (i.e. completion of fencing within three months), otherwise the purchaser has the right to cancel the contract and be refunded all moneys paid.
2. Where the purchase of land includes an 'incentive package' component the residential land and property developers be required to place the total dollar value of the 'incentive package' into a trust account to be used when required to complete the works provided within the package.

The second condition above would provide a level of protection to the land purchaser to ensure that funding was available to complete works, such as landscaping, that can not be undertaken until after a dwelling is completed on the land, at the appropriate time. Under the current situation the landowner has to accept the word of the developer that landscaping will be provided in a reasonable time after a dwelling is completed and borrow the necessary funds to build the dwelling, thus incurring a large mortgage. If the developer does not honour the commitment within a reasonable time or at all when the dwelling is completed the only recourse to the landowner is to take civil action which is difficult and time consuming and does not always achieve the outcome of the finalisation of landscaping.

Finally it should be acknowledged that in most instances the residential land and property developers in this State meet their 'incentive packages' commitments in a timely manner to the satisfaction of the land purchaser, however the actions of the minority that do not honour their commitments receive all the publicity and tend to give the industry a bad name.

*PF. Sheedy.*

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