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21st September 2011

Dr. M.D. Nahan MLA
 Chair
 Economics and Industry Standing Committee
 Level 1, 11 Harvest Terrace
 Perth WA 6005



Attention: Mr. Tim Hughes
 Principal Policy Officer

By email: laeisc@parliament.wa.gov.au

Dear Dr. Nahan

Parliamentary Enquiry - Economics and Industry Standing Committee

1. *The conduct of Ironbridge Holdings Pty Ltd in meeting its contractual obligations on its residential property developments in Western Australia with a particular emphasis on The Tuarts estate in Dalyellup.*
2. *The Committee will also investigate:*
 - a. *The incidence of late or non-delivery of items offered by residential land and property developers under "incentive packages";*
 - b. *The redress available to buyers for late or non-delivery of such items.*

The Urban Development Institute of Australia (WA) is pleased to provide this submission to the Parliamentary Enquiry - Economics and Industry Standing Committee addressing **Item 2, part a) and part b) only**. UDIA (WA) is the peak body representing the urban land development industry in Western Australia. UDIA is a membership organisation with members drawn from the development, planning, valuation, engineering, environmental, market research and urban design professions. Our membership also includes a number of key State Government agencies and Local Government Authorities from across the state. Nationally, UDIA represents the interests of thousands of members and includes all the major land development companies, both public and private, and specialist consultancy firms.

This response to the enquiry is based on a survey UDIA conducted of the major development companies in Western Australia that provide "incentive packages" to purchasers of house and land packages. I understand that some of these same companies have provided their own response to the enquiry with details of various "incentive packages" and how these are managed through the offer and acceptance to purchase process. The enquiry will learn that "incentive packages" are not a recent innovation and have been utilised by the development industry over many years with no reported problems.

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The rationale behind incentives is based on a sound market principle where a seller demonstrates the quality of his product. The quality and timing of fencing and landscaping impact on the appearance of an estate and property values. One of the main objectives of providing front landscaping and fencing is to present a high quality environment and pleasant streetscape to potential purchasers of future stages of a development. Repeat and referral business is critically important to developers and it is in the developers' own interests to deliver fencing and landscaping on completion of the construction of homes. Market forces almost demand the early delivery of incentives and, in a competitive market, word of non-compliance would quickly spread and negatively impact on sales. This is an unacceptable outcome for developers and a key reason why incentive packages have operated so successfully in Western Australian.

Response to: *The incidence of late or non-delivery of items offered by residential land and property developers under "incentive packages"*

Industry reports that the delivery of "incentive packages" has been without incident or complaint over many years. One company reports they have delivered incentive packages on over 10,000 lots over a 16 year period without issue.

There is a range of incentives packages offered with a common one being a landscaping and/or fencing package with values ranging from \$3,500 to \$7,000 with the general stipulation that these are delivered by the company's contractors to agreed standards. The scale of development means that developers are able to provide the incentives at below retail rates. Other offers include "slab down rebates" which may be say a \$10,000 cash rebate that is paid when the slab is laid and the client's builder produces an invoice to show slab down stage has been reached.

Conflict could arise where the subsequent purchaser of a block seeks to claim a front landscaping/fencing incentive which contractually only applies to the initial purchaser. The strong preference of developers is for blocks to be built on soon after purchase and, despite having no contractual obligation to do so, the common practice is for developers to honour the incentive package and provide it to subsequent buyers for reasons of maintaining estate presentation and attractive streetscapes discussed earlier.

Response to: *The redress available to buyers for late or non-delivery of such items*

Where the incentives are included as an express condition of contract, and the seller does not deliver, potentially there is a *prima facie* breach of contract and a remedy is available to buyers under Contract Law. In some cases, the condition of paying the incentive requires the purchaser to meet certain building timeframes and/or not breach restrictive covenants pertaining to building standards or guidelines. A dispute may arise as to whether or not this has occurred however UDIA has no reported incidence of this happening.

Summary

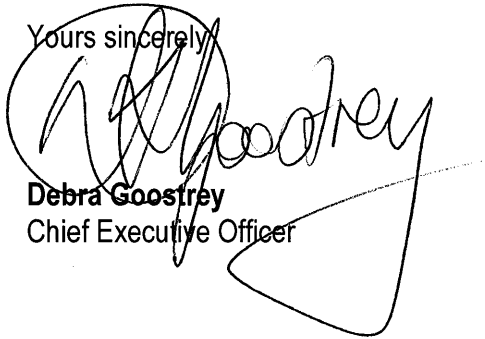
UDIA understands that the enquiry is responding to the aberrant behaviour of one company however it is our firm view that the industry needs to be encouraged to maintain incentives and that changes to current conditions regarding incentive packages are not warranted. UDIA is responsive to consumer sentiment and the industry's standing in the community and to this end our website provides consumers with information on the avenues open to them where a dispute has occurred.

The development industry has a long and untarnished history of delivering "incentive packages" to new home buyers. Western Australia is the most advanced state in the provision of incentive packages and they help reduce the financial demands that can follow the construction of a new home, particularly for first homebuyers.

The feedback that we have received in response to this enquiry clearly demonstrates that "incentive packages" are a critical component of new residential development and make a positive contribution to urban amenity and property values.

Thank you for the opportunity to provide this submission to the enquiry.

Yours sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Debra Goostrey', is written over the typed name and title. The signature is fluid and cursive, with a large loop at the end.

Debra Goostrey
Chief Executive Officer