



**ASSURANCE**  
*Fair Trading Act 1987*  
Section 79

Assurance to the Commissioner for Consumer Affairs given for the purposes of s79 of the *Fair Trading Act 1987* by:

**JM & CO Landscaping Pty Ltd (ACN 624 324 232) t/a  
JM & CO Landscaping Pty Ltd and Mr John Mori McDonald**

**1. PERSONS GIVING THIS ASSURANCE**

- 1.1. This Assurance is given to the Commissioner for Consumer Affairs ("the Commissioner") by JM & CO Landscaping Pty Ltd trading as JM & CO Landscaping Pty Ltd and Mr John Mori McDonald of Heathfield in the state of South Australia for the purposes of Section 79 of the *Fair Trading Act (SA) 1987*.

**2. BACKGROUND**

- 2.1. JM & CO Landscaping Pty Ltd (ACN 624 324 232) is a proprietary company limited by shares.
- 2.2. JM & CO Landscaping Pty Ltd is a licensed builder in South Australia.
- 2.3. Mr John Mori McDonald (Mr McDonald) is the director of JM & CO Landscaping Pty Ltd.
- 2.4. Between 1 December 2018 and 31 January 2019 JM & CO Landscaping Pty Ltd did not hold a building work contractor's licence issued under the *Building Work Contractor's Act 1995* ("the Act").
- 2.5. Section 6 of the Act prohibits a person from carrying on business as a building work contractor except as authorised by a licence under that Part.

**3. CONDUCT OF CONCERN**

- 3.1. Between 1 December 2018 and 31 January 2019 JM & CO Landscaping Pty Ltd carried on business as a building work contractor by installing a pool fence and carrying out paving work at a consumer's address after being subcontracted to perform the work by another builder.
- 3.2. At all relevant times JM & CO Landscaping Pty Ltd did not hold a licence authorising the company to contract for building work.
- 3.3. As a result of the Commissioner's concerns to the conduct referred to in paragraph 3.2, JM & CO Landscaping Pty Ltd has since obtained a building work contractor's licence issued under the *Building Work Contractors Act 1995*.

#### **4. CONTRAVENTIONS**

- 4.1. The Commissioner considers, and JM & CO Landscaping Pty Ltd and Mr McDonald acknowledge that by engaging in the conduct described in paragraph 3 above, it is likely that JM & CO Landscaping Pty Ltd has:
  - 4.1.1. carried on business as a building work contractor whilst not authorised to do so by licence, in contravention of section 6(1)(a) of the *Building Work Contractors Act 1995*.

#### **5. ASSURANCE GIVEN BY JM & CO LANDSCAPING PTY LTD AND MR JOHN MORI McDONALD FOR THE PURPOSES OF SECTION 79 OF THE FAIR TRADING ACT 1987**

- 5.1. In response to the concerns raised by Consumer and Business Services (CBS) on behalf of the Commissioner, JM & CO Landscaping Pty Ltd and Mr McDonald provide an Assurance to the Commissioner that they will not:
  - 5.1.1. Carry on a business as a building work contractor unless authorised by licence under the *Building Work Contractors Act 1995*;

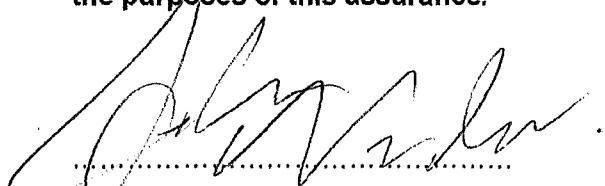
#### **6. COMMENCEMENT OF ASSURANCE/UNDERTAKING**

- 6.1. This Assurance comes into effect when:
  - 6.1.1. the Assurance is executed by JM & CO Landscaping Pty Ltd
  - 6.1.2. the Assurance is executed by Mr McDonald; and
  - 6.1.3. the Commissioner accepts the Assurance so executed.

#### **7. ACKNOWLEDGMENTS**

- 7.1. JM & CO Landscaping Pty Ltd and Mr McDonald acknowledge that:
  - 7.1.1. It is an offence to breach an Assurance, as set out in section 81 of the *Fair Trading Act 1987*;
  - 7.1.2. CBS will make this Assurance publicly available including by publishing it on CBS' public register of Assurances on its website;
  - 7.1.3. CBS will, from time to time, make public reference to the Assurance including in news media statements and in CBS publications;
  - 7.1.4. This Assurance in no way derogates from the rights and remedies available to any other person arising from the alleged conduct; and
  - 7.1.5. This Assurance may be produced to any Court in respect of any proceedings alleging any future contraventions of the *Fair Trading Act 1987*.

EXECUTED BY JM & CO Landscaping Pty Ltd pursuant to *section 127(1) of the Corporations Act 2001 (Cth)* and Mr John Mori McDonald in his personal capacity for the purposes of this assurance.



John Mori McDonald

Director of JM & CO Landscaping Pty Ltd



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Signature of Witness

Name: .....

Date: 26-5-20

Date: 29-5-20

Accepted by the Commissioner for Consumer Affairs (SA) pursuant to s79 of the *Fair Trading Act 1987* and section 218 of the *Australian Consumer Law (SA)*.



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Commissioner for Consumer Affairs (SA)

Date: 3/6/20