



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:

Thomas Kenneth Prokopec

PERSONS GIVING THIS ASSURANCE

1. This Assurance is given to the Commissioner for Consumer Affairs ("the Commissioner") by Mr Thomas Kenneth Prokopec for the purposes of section 79 of the *Fair Trading Act 1987* (SA).

BACKGROUND

2. Mr Thomas Kenneth Prokopec is a sole trader with the ABN 86 499 335 701 and trades under the business name 'Clare Valley Landscape Design'.
3. Mr Prokopec does not hold, and has never held, a building work contractor's licence pursuant to the *Building Work Contractors Act 1995* ("the Act").
4. Section 6(1)(a) of the Act provides that a person must not carry on business as a building work contractor except as authorised by a licence issued under Part 2 of that Act.
5. Section 34 of the Act provides the following:
 - 5.1. A building work contractor must not perform building work to which this Division applies unless—
 - (a) a policy of insurance that complies with this Division is in force in relation to that building work; and
 - (b) in the case of building work to be performed by the contractor under a domestic building work contract—the building owner has been provided with a certificate that evidences the taking out of that policy of insurance and complies with the requirements of the regulations.

CONDUCT OF CONCERN

6. Between 19 August 2020 and 27 June 2021 (inclusive) Mr Thomas Kenneth Prokopec carried on business as a building work contractor by:
 - 6.1. contracting with the consumers, [REDACTED] and [REDACTED], for the provision of goods and services being the performance of building work and other works, at their property in [REDACTED] Highbury SA 5089 ("the property") for a fixed price of \$137,802;
 - 6.2. accepting payment in the total sum of \$55,998.44 for the work; and

- 6.3. performing or partially performing building work at the property.
7. The building work provided for within the contract included construction of decking and living area (including decking with steps, kitchen, concrete curved bench seat and concrete base area to fire pit), construction of a spa (including installation of concrete base and drainage, decking, angle steps to entrance, and glass fencing), construction of a retaining wall and alfresco, and the removal and installation of concreting.
8. At all relevant times, Mr Prokopec did not hold a building work contractor's licence under Part 2 of the Act authorising him to contract and perform the building work.
9. At all relevant times, Mr Prokopec performed building work without a policy of insurance complying with Division 3 of the Act in force in relation to that building work.

CONTRAVENTIONS

10. The Commissioner considers and Mr Thomas Kenneth Prokopec acknowledges, that by engaging in the conduct described in paragraphs [6]-[9], it is likely that Mr Prokopec has:
 - 10.1. Carried on business as a building contractor without authorisation by licence in contravention of section 6(1)(a) of the Act;
 - 10.2. Performed building work without a policy of insurance complying with Division 3 of the Act in force in contravention of section 34 of the Act.

COMMENCEMENT OF ASSURANCE

11. This Assurance comes into effect when:
 - 11.1. The Assurance is executed by Mr Thomas Kenneth Prokopec; and
 - 11.2. The Commissioner for Consumer Affairs accepts the Assurance so executed.

ASSURANCE BY MR THOMAS KENNETH PROKOPEC FOR THE PURPOSES OF SECTION 79 OF THE FAIR TRADING ACT 1987

12. In response to the concerns raised by Consumer and Business Services ("CBS") on behalf of the Commissioner for Consumer Affairs, Mr Thomas Kenneth Prokopec hereby provides an Assurance to the Commissioner that:
 - 12.1. Mr Prokopec will not carry on business as a building work contractor unless authorised by a licence under the *Building Work Contractors Act 1995*; and
 - 12.2. Mr Prokopec will not perform any domestic building work to which Division 3 of the Act applies, unless a policy of insurance that complies with Division 3 of the Act is in force.

ACKNOWLEDGMENTS

13. Mr Thomas Kenneth Prokopec acknowledges that:
 - 13.1. It is an offence to breach an Assurance, as set out in section 81 of the *Fair Trading Act 1987*.

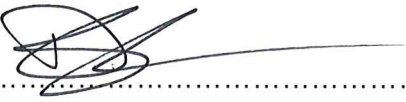
- 13.2. CBS will make this Assurance publicly available including by publishing it on CBS' public register of undertakings on its website;
- 13.3. CBS may, from time to time, make public reference to the Assurance including in news media statements and in CBS publications; and
- 13.4. This Assurance in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.
- 13.5. This Assurance may be produced to any Court in respect of any proceedings alleging any future contraventions of the *Fair Trading Act 1987* or a related Act.

EXECUTED BY Thomas Kenneth Prokopec in his personal capacity for the purposes of this Assurance


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Mr Thomas Kenneth Prokopec

6/6/2023
.....
Date

Accepted by the Commissioner for Consumer Affairs (SA) pursuant to s79 of the *Fair Trading Act 1987*


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Commissioner for Consumer Affairs (SA)

7/6/23
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Date