

COMMERCE ACT 1986: BUSINESS ACQUISITION  
SECTION 66: APPLICATION SEEKING CLEARANCE

Date: 2008

The Registrar

Market Structure Team

Commerce Commission

PO Box 2351

WELLINGTON

This application gives notice seeking **clearance** of a proposed business acquisition pursuant to s66(1) of the Commerce Act 1986.

## PART I: TRANSACTION DETAILS

### 1. What is the business acquisition for which clearance is sought?

CSR Building Products (NZ) Limited (**CSR**) seeks clearance for it or any interconnected body corporates of it to acquire 100 per cent of the shares in, or assets of, Ross Roofing, Rosscrete Roofing Tiles and Ross Brick & Pavers (together, **Ross Roofing**) from the Ross group of businesses (the **Acquisition**).

### 2. Who is the person making this application?

This application is given by:

Nick Pezet  
General Manager NZ  
MONIER Bricks & Roofing  
1 Monier Place  
Penrose  
Auckland

Telephone: 09 571 1045  
Facsimile: 09 579 3040  
Email: [npezet@csr.co.nz](mailto:npezet@csr.co.nz)

CSR requests that all correspondence is directed in the first instance to:

Bell Gully  
PO Box 4199  
Auckland 1140

Attention:	Phil Taylor Partner	Kristel McMeekin Solicitor
Telephone:	(09) 916 8940	(09) 916 8923
Fax:	(09) 916 8801	(09) 916 8801
Email:	<a href="mailto:phil.taylor@bellgully.com">phil.taylor@bellgully.com</a>	<a href="mailto:kristel.mcmeekin@bellgully.com">kristel.mcmeekin@bellgully.com</a>

### Confidentiality

#### 3. Do you wish to request a confidentiality order for:

##### 3.1 The fact of the proposed acquisition?

Confidentiality is not sought for the fact of the Acquisition.

##### 3.2 Specific information contained in or attached to the application?

- If so, for how long?
- Why?

Confidentiality is sought in respect of the information in this application that is contained in square brackets.

Confidentiality is sought under section 100 of the Commerce Act 1986 and under section 9(2)(b) of the Official Information Act 1982 on the grounds that:

- the information is commercially sensitive and contains valuable information which is confidential to CSR and/or Ross Roofing; and
- disclosure is likely to give an unfair advantage to CSR and Ross Roofing's competitors and prejudice unreasonably the commercial positions of CSR and Ross Roofing.

CSR also requests it is notified of any request made to the Commerce Commission (the **Commission**) under the Official Information Act 1982 for the confidential information, and that the Commission seeks CSR's views as to whether the information remains confidential and commercially sensitive at the time those requests are being considered.

The foregoing applies equally in respect of any additional information provided to the Commission that is expressed to be confidential.

## Details of the participants

### 4. Who are the participants (i.e. the parties involved)?

#### 4.1 Participants

The participants are CSR and Ross Roofing.

#### 4.2 Give name, postal address, name of contact person(s) and telephone and facsimile numbers of each participant.

##### (a) CSR

CSR requests that all correspondence to it in respect of this application be addressed in the first instance to Bell Gully. Bell Gully's contact details are listed at section 2 above.

##### (b) Ross Roofing

Ross Roofing requests that all correspondence to it in respect of this application be addressed in the first instance to:

Simpson Grierson  
Private Bag 92518  
Auckland 1141

Attention: Robert McLean  
Partner  
Telephone: (09) 977 5077  
Fax: (09) 977 5036  
Email: robert.mclean@simpsongrierson.com

**5. Who is interconnected to or associated with each participant?**

**5.1 Acquirer group/associates**

**CSR**

CSR is a New Zealand company, wholly owned by Rivarol Pty Limited, an Australian company. Rivarol Pty Limited is in turn wholly owned by CSR Building Products Limited, a wholly owned subsidiary of CSR Limited (both of which are Australian companies).

CSR owns CSR Refining Investments (NZ) Limited, which in turn owns 25% of the New Zealand Sugar Company Limited.

**5.2 Target company group/associates**

**Ross Roofing**

The Ross Roofing businesses to be acquired are the following:

- (a) Ross Roofing Limited, which is 25% owned by Quentin Bruce Ross, Steven Ian Ross and Richard Arthur Watson as trustees of the Quentin Ross Investment Trust, 25% owned by Quentin Bruce Ross, Steven Ian Ross and Richard Arthur Watson as trustees of the Steven Ross Investment Trust, 25% owned by Cameron John Ross, Michele Nola Baskett and Richard Arthur Watson as trustees of the Cameron Ross Investment trust and 25% owned by Michelle Nola Baskett and Lindsay John Horne as trustees of the Michelle Ross-Baskett Investment Trust.
- (b) Roscrete Roofing Tiles Limited, which is a wholly owned subsidiary of Ross Roofing Limited.
- (c) Ross Brick & Pavers Limited, which is also a wholly owned subsidiary of Ross Roofing Limited.

Neither Roscrete Roofing Tiles Limited nor Ross Brick & Pavers Limited hold shares in any other company.

**6. Does any participant, or any interconnected body corporate thereof, already have a beneficial interest in, or is it beneficially entitled to, any shares or other pecuniary interest in another participant?**

Neither CSR nor any of its interconnected bodies corporate have any beneficial interest in, or are beneficially entitled to, any shares or other pecuniary interest in any other participant.

CSR understands that neither Ross Roofing nor any of its interconnected bodies corporate have any beneficial interest in, or are beneficially entitled to, any shares or other pecuniary interest in any other participant.

**7. Identify any links, formal or informal, between any participant/s including interconnected bodies corporate and other persons identified at paragraph 5 and its/their existing competitors in each market.**

CSR is not aware of any links between the above persons in any relevant market.

8. **Do any directors of the 'acquirer' also hold directorships in any other companies which are involved in the markets in which the target company/business operates?**

No directors of CSR hold directorships in any other companies that are involved in the New Zealand markets in which Ross Roofing operates.

9. **What are the business activities of each participant?**

**CSR**

The CSR group of companies is headquartered in Sydney, Australia, and operates throughout Australia, New Zealand and Asia.

The group's principal activities are carried out through the following divisions:

- (i) Sugar: which includes the production of raw sugar and renewable electricity, as well as ethanol and refined sugar.
- (ii) Building Products: which involves the manufacture and supply of building products, including plasterboard, fibre cement, glasswool and rockwool insulation, clay bricks and pavers, concrete and terracotta roof tiles and lightweight concrete products. The products are supplied under the following major brands: Bradford, Cemintel, Gyprock, Hebel, Wunderlich, Monier and PGH.
- (iii) Aluminium: which includes the production of aluminium ingots, billets and slabs.
- (iv) Property: which includes the development of residential estates and the sale or leasing of industrial estates.

The Building Products division, which includes the group's New Zealand bricks and roofing activities, is the division that is relevant to the Acquisition.

CSR's bricks and roofing business comprises:

- the manufacture of concrete roofing tiles (with manufacturing facilities in the North and South Islands, supplying to customers in each island respectively);
- the manufacture of clay bricks (with manufacturing facilities in New Lynn, Auckland supplying customers nationwide); and
- the installation of complete roofs for builders on a contract basis.

CSR is involved with only domestic rather than industrial roofing.

**Ross Roofing**

The Ross group is based in Auckland, and operates throughout Auckland and the Waikato region.

As noted at section 5.2 above, the Acquisition relates to the acquisition of Ross Roofing Limited, Roscrete Roofing Tiles Limited and Ross Brick & Pavers Limited (together, Ross Roofing). The latter two companies are wholly owned by Ross Roofing Limited. Ross Roofing also owns three

other companies (which are not proposed to be acquired), Batten Supplies Limited and Watkinson and Ross Roofing Limited (neither of which are trading) and Ross Management Services (1995) Limited, which provides the services of a few senior employees to various companies within the Ross group.

The three companies the subject of the Acquisition are described as follows:

- (v) Ross Roofing Limited is a roofing contracting business, which installs Roscrete concrete tiles, Italian clay tiles and metal tiles manufactured by the Ross Group throughout the greater Auckland area and in the Waikato. Ross Roofing Limited is also involved with roof restoration.
- (vi) Roscrete Roofing Tiles manufactures concrete roofing tiles, which are supplied to Ross Roofing Limited and external sales agents across New Zealand.
- (vii) Ross Brick & Pavers is a clay brick sales and distribution business supplying the greater Auckland area.

Ross Roofing is involved with only domestic rather than industrial roofing.

**10. What are the reasons for the proposal and the intentions in respect of the acquired or merged business?**

The acquisition will enable the consolidation of CSR and Ross Roofing's tile plants, which will lower the unit cost of manufacture of the combined entity's tiles. With an enhanced market presence, CSR expects that it will be well positioned to ensure its ongoing competitiveness with the leading domestic roofing firms.

## PART II: IDENTIFICATION OF MARKETS AFFECTED

### Horizontal aggregation

#### 11. Are there any markets in which there would be an aggregation of business activities as a result of the proposed acquisition?

##### 11.1 Areas of aggregation between the parties

The Acquisition would give rise to aggregation between the parties in respect of the following business activities:

(a) Clay bricks

There would be a small degree of aggregation in respect of clay bricks, with CSR being a producer of clay bricks in New Zealand (with an estimated [ ]% of nationwide supply). Ross Roofing is a very small participant in clay bricks, supplying customers throughout greater Auckland (with an estimated [ ]% of nationwide supply).

There are a number of other suppliers of clay bricks, including Austral Bricks (with an estimated [ ]% market share) and Midland Bricks (with an estimated [ ]% market share). Given the minimal aggregation between the parties in respect of clay bricks and the presence of other significant suppliers, CSR does not consider that the Acquisition would give rise to a substantial lessening of competition in respect of the supply of clay bricks and does not propose to address this area of overlap further in this application. CSR is happy to provide further information on this point if the Commission would like it to do so.

(b) Clay tiles

Both parties are involved with the supply of clay roofing tiles, although CSR supplies only very small volumes of these (in 2007 supplying approximately [ ] square metres of clay tiles, for about [ ] finished roofs).

For that reason, CSR does not consider that the Acquisition would give rise to any issue in respect of the supply of clay tiles (and in any event, CSR submits that the supply of clay tiles would fall within the broader domestic roofing market, discussed at section 11.3 below). Accordingly, CSR does not propose to address this area of overlap further in this application, but is again happy to provide further information if the Commission would like it to do so.<sup>1</sup>

(c) Concrete roofing tiles

CSR and Ross Roofing overlap in respect of the manufacturing and distribution, i.e. the "supply"; and the "supply and fixing" of concrete roofing tiles. Ross Roofing and CSR are the only concrete tile suppliers in New Zealand.

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<sup>1</sup> In terms of metal tiles, there would be no actual or potential overlap between the parties in this respect as CSR has no intention of entering the metal tile business. In any event, as with clay tiles, metal tiles would also fall within a broader market for domestic roofing products (where the combined entity would be sufficiently constrained by numerous other suppliers).

In terms of differentiating between the “supply” and the “supply and fixing” of concrete tiles:

- Supplying involves the manufacture and distribution of roofing materials to distributors (resellers), who take title to the materials and supply an installed roof to customers.
- Supply and fixing involves customers for whom CSR itself (through their subcontractors) or their competitors supplies and fixes a roof.

However, the ultimate customers in each of these markets are the same (and include builders, developers and owner-builders).

Regardless of whether the ultimate customer is supplied by a distributor or a firm such as CSR, in both cases the customer receives an installed roof. That is, it is not possible for customers to acquire only the roof tiles and carry out the fixing themselves. Given that fact, customers often obtain quotes from both suppliers directly and distributors.

## 11.2 Previous consideration by the Commission

The Commerce Commission considered the roofing industry in March and April 2001 when it granted clearance for Fletcher Steel to acquire Steel and Tube Holdings, and then Steel and Tube Holdings to acquire Fletcher Steel. In those decisions, the Commission considered the effect of the acquisition in terms of various market definitions, relevantly, the national market for the manufacture and distribution of domestic roofing products (the **domestic roofing market**).

In the decisions, the Commission relied on the earlier analysis it had carried out in November 1999 when Fletcher Steel first applied for and had been declined clearance to acquire Steel and Tube (on the basis of competition issues in certain markets, but not roofing markets).<sup>2</sup> In the November 1999 decision (the **Fletcher decision**), the Commission observed the following in regard to the domestic roofing market:

### (a) Product aspect of the market

The Commission reached the view that the appropriate market definition was that for domestic roofing products, noting:

“There are a number of roofing products available for domestic roofing requirements. These include concrete tiles, roll-formed steel products, metal tiles, shingles, and in some cases, rubber membrane products.”

While the Commission did not comment directly on the substitutability of concrete compared to metal, it did note that the tiles are likely to be weaker substitutes in the industrial roofing market than in the domestic roofing market. This suggests that the Commission’s view was that the various types of roofing materials were in fact very substitutable (and therefore properly within the same market) in the domestic market.

The Commission said that there was scope to suggest the markets might be broader than separate domestic and industrial markets (i.e. one market encompassing both domestic and industrial). The Commission noted that some domestic materials (such as tiles and shingles) are not used in industrial roofing, some domestic suppliers are not active in industrial roofing and that the industrial sector is extremely price sensitive whereas the domestic sector is less so. Fashion, aesthetics and costs were other factors weighing in favour of separate domestic and industrial markets. While the Commission considered

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<sup>2</sup> Fletcher Challenge Steel Products Limited and Steel and Tube Holdings Limited, 4 November 1999, Decision 376. Clearance was subsequently granted for the acquisition in December 1999 (the Commission also applying the same market definitions applied in Decision 376).



there was some scope to include both domestic and industrial roofing within the same market, the Commission ultimately proceeded on a conservative basis and adopted separate domestic and industrial markets.

(b) Geographic aspect of the market

The Commission said that manufacturing and distribution is a national market, given that many customers purchase on a national basis, there are a number of national operators, and because transport costs are not high relative to the delivered product.

### 11.3 Application to the Acquisition

(a) Domestic roofing market

The Fletcher decision concerned the manufacturing and distribution level of the market, rather than installation, and the discussion in the decision therefore relates directly to the “supply” market. As discussed at section 11.1(c) above, the manufacture and distribution (supply) market involves the supply of roofing materials to distributors, who in turn supply customers with an installed roof. (The installation (supply and fix) market is discussed at section (b) below.)

In terms of the product aspect of this market, CSR agrees with the Commission’s view in the Fletcher decision (and the Commission’s other, related, decisions) that it is appropriate to define a national market for the manufacture and distribution of domestic roofing products, which includes concrete tiles, roll-formed steel products, metal tiles, shingles, and in some cases, rubber membrane products. As in the Fletcher decision, CSR refers to that market as the “domestic roofing market”.

There is a high degree of substitutability between different types of domestic roofing materials, which supports the view that it remains relevant to define a domestic roofing market. In particular, CSR notes the following:

- There is strong competition between suppliers and manufacturers of various roofing materials (discussed in more detail at section 16 below).
- From the perspective of domestic customers, metal tiles and long run metal roofing are direct replacements and true substitutes for concrete tiles. Indeed, customers of large building groups such as Golden Homes, when selecting the specifications of a particular house design, can choose either a concrete tile roof or a metal roof and the cost of the finished house is very similar (if not identical) regardless of the material chosen.
- The pricing of one roofing material directly affects the price of alternative materials, and CSR takes the pricing of all materials, across all competitors, into account in setting prices. (See section 13.4 below for a discussion of the price survey CSR carried out to this effect.)
- Builders do offer their customers (the end user) the choice of using metal or concrete roofing. While some builders recommend metal over concrete or vice versa (depending on their personal preference), the material chosen is ultimately determined by the customer’s own preference. Customers choose roofing primarily on the basis of price (also taking into account aesthetics and fashion) rather than construction material. For example, the current trend is toward mono-pitch roofs. These are roofs with only one slope which nearly always has a low pitch. If the roof pitch is lower than 20 degrees concrete tiles cannot be used due to wind driven rain ingress. In these cases long run metal roofing is the preferred material. CSR believes this current trend has had an adverse effect on the market share of concrete tile suppliers within the domestic roofing market and, in practical terms, there is nothing CSR can do to counter this.

- CSR frequently gains/loses customers to other suppliers of different roofing materials. For instance, Classic Homes (the second largest builder in the Bay of Plenty) has just built their latest showhome with a metal tile roof, whereas all previous showhomes were built with a concrete tile roof. In addition, many of the Fletcher companies in Auckland changed from building with concrete tile roofs to metal when Fletcher acquired AHI (a supplier of metal tile roofing).

Notwithstanding this high degree of substitution, CSR have identified that there may be cost advantages associated with using metal roofing over concrete roofing due to the difference in the weight of the two materials. This weight difference is discussed further in section 13.1 below.

Due to their greater weight, the cost of transporting concrete tiles can be higher than metal tiles. The degree of this cost difference depends on how far the customer is from the point of production. CSR believes this cost disadvantage has resulted in concrete tiles losing some market share to metal roofing.

However, CSR does not believe this cost advantage to metal roofing impacts on the overall substitutability of the two materials. CSR has remained competitive with firms using metal materials despite this disadvantage by reducing its prices and maintaining long term customer relationships. This advantage to metal roofing, at most, suggests that metal roofing imposes a slightly (but not material) greater constraint on concrete tiles, within the domestic roofing market, than concrete tiles impose on metal roofing.

Therefore the above evidence is consistent with the Commission's conclusion in the Fletcher decision that the market is that for domestic roofing products.

Given that the parties distribute on a national level, CSR agrees that the market is national in geographic scope (as it was in the Fletcher decision).

(b) Supply and fixing markets

CSR and Ross Roofing are also involved in the supply and fixing of domestic roofing materials. Again, the Fletcher decision did not discuss roofing installation/fixing. It is not relevant to consider a discrete fixing market, given that (as discussed above) customers are only able to receive an installed roof, i.e. it is not possible to acquire only roof tiles from CSR or from a distributor. Therefore, CSR believes the relevant functional market to be that for supply and fixing.

In terms of the product aspect of this market, on the basis of the discussion in respect of the domestic roofing market in terms of the differences between domestic and industrial roofing, CSR considers this market to involve the supply and fixing of domestic roofing.

CSR believes that supply and fixing markets are regional in scope, given that the parties are involved with supply and fixing at the regional (Auckland and Waikato) rather than national level.

#### 11.4 Adoption of relevant markets

Therefore, CSR submits that the relevant markets are those for:

- the national manufacture and distribution (i.e. supply) of domestic roofing products (the **domestic roofing market**);
- the Auckland domestic roof installation market (the **Auckland supply and fixing market**); and
- the Waikato domestic roof installation market (the **Waikato supply and fixing market**).

These markets are discussed further in Part III from page 14 of this application.

### **Differentiated product markets**

12. **Please indicate whether the products in each market identified in question 11 are standardised (buyers make their purchases largely on the basis of price) or differentiated (buyers make their purchases largely on the basis of product characteristics as well as price).**

Customers make their purchasing decisions primarily on the basis of price. However, the products are to some extent differentiated in that customers also take into account product characteristics such as aesthetics and fashion.

13. **For differentiated product markets:**

- 13.1 **Please indicate the principle characteristics of products that cause them to be differentiated one from another.**

The key differentiating factor between the products is the material they are made of, either concrete or metal, but only in terms of how the construction material reflects the customer's preference for the overall appearance of a finished house. Indeed, as discussed at section 11.3(a) above, customers choose roofing primarily on the basis of price, also taking into account aesthetics and fashion, rather than any perceived characteristic of a concrete or a metal roof. This is because there is in fact no difference between the materials in terms of the form or function of a finished roof and because the type of roofing material chosen does not have any significant effect on the construction of a building or its overall cost.

While there are some differences between the installation methods for roofs made of different materials, CSR does not consider these differences to be significant. However, for completeness, the following is a list of the factors that CSR believes differ between long run metal roofing, metal tiles and concrete tiles.

- The installation of a long run metal roof would generally require the installer to also install all flashings around the roof. In the case of a tiled roof (either concrete or metal), all flashings would be installed by a qualified roof plumber and not the roof fixer. This adds a number of additional tasks and components for the metal roofing installer.
- Tiled roofs require a narrower gauge between roof battens than a long run metal sheet roof. In the case of roof tiles this battening gauge is around 320mm compared to corrugated metal sheet which requires a gauge of 900mm. This difference results in fewer battens and a quicker battening process for long run metal roofs.
- Once a tiled roof has been battened a roof fixer would place up to 10 tiles per m<sup>2</sup> and fix the tiles (with either clouts through the tile nail hole, or tile clips in high wind or cyclonic areas) into the roofing battens. In the case of long run metal sheeting, the sheets are secured one sheet at a time, with the only restriction on the size of the sheet being the transportation limit. An average house sheet would be in the order of 8-10m<sup>2</sup>. The sheets are fixed with screws, at an average rate of 6 per m<sup>2</sup>, into the roofing battens.
- Due to the weight of concrete roof tiles an elevator is used to transport tiles from the ground to the roof. These stacks of tiles are then placed across the roof ready for tile laying. The average concrete roof tile weighs in the order of 4.5kg with an average roof weighing approximately 14 tonnes. In the case of long run metal roofing, the sheets are handed up to an installer standing on the roof (although two storied or more construction may require cranes to get the sheets onto the roof in a safe manner). The average weight of a long run metal roof and a metal tile roof is approximately one tonne.

- Due to this weight difference, a structure built for a concrete roof requires stronger framing. This framing can also support a metal roof. However, a structure built for a metal roof cannot support the heavier concrete roof tiles. Therefore, CSR believes a swap from concrete to metal roofing is possible if there are any delays with the concrete roof, however, a swap from metal to concrete roofing is not possible.
- Each roof requires a waterproof sealing along the hip and ridge lines. A tiled roof uses ridge capping. This is a manufactured concrete or terracotta capping approximately 300mm long and secured to the roof timbers and adjoining roof tiles using a sand and cement bedding, together with a flexible pointing to add extra security and an aesthetic finish. A metal roof uses long lengths of metal ridging which is secured with screws into the roof timbers.

While there are some differences in installation methods due to the different materials used, CSR does not believe that these differences are outweighed by the commonalities between the different types of materials. Again, there is no difference between the materials in terms of the form or function of a finished roof and customers principally take price into account when selecting roofing materials. In any event, as indicated by the bullet points above, there are some additional aspects to the installation process for all materials which offset any perceived advantage of any one particular material.

**13.2 To what extent does product differentiation lead firms to tailor and market their products to particular buyer groups or market niches?**

CSR does not believe that product differentiation causes firms to tailor or market their products. Rather, CSR believes that firms primarily differentiate themselves based on service levels due to the commoditised nature of domestic roofing products.

**13.3 Of the various products in the market, which are close substitutes for the products of the proposed combined entity? – which are more distant substitutes?**

As discussed at section 11.3(a) above, all the products within the domestic roofing market are substitutes for each other.

**13.4 Given the level of product differentiation, to what extent do you consider that the merged entity would be constrained in its actions by the presence of other suppliers in the market(s) affected?**

As discussed at section 11.3(a) above, pricing is very competitive between concrete tiles, long run metal and metal tiles. In order to demonstrate this, CSR recently arranged for its Christchurch distributors to carry out an (anonymous) price comparison exercise. A house plan was sent to a number of suppliers, who were asked to quote the cost of an installed roof for the plan. The same plan was used for concrete tiles, metal tiles and long run metal roofing (which is another way of demonstrating that the products are interchangeable). The survey showed that:

- the average quote for a concrete tile roof was \$16,528.53;
- the average quote for a long run metal roof was \$15,595.43; and
- the average quote for a metal tile roof was \$17,442.95.

As the above figures indicate, pricing is very competitive between all three material types as well as between different suppliers of the same product. Further, CSR notes that prices between the different materials also vary month to month, such that no one type of material can be considered generally the most expensive.

### **Vertical integration**

14. **Will the proposal result in vertical integration between firms involved at different functional levels?**

The Acquisition will not result in vertical integration. The parties are already vertically integrated through their existing manufacturing and distribution activities.

15. **In respect of each market identified in questions 11 and/or 14 identify briefly:**

- 15.1 **all proposed acquisitions of assets of a business or shares involving either participant (or any interconnected body corporate thereof) notified to the Commission in the last three years.**

There have been no such acquisitions.

- 15.2 **any other acquisition of assets of a business or shares which either participant (or any interconnected body corporate) has undertaken in the last three years.**

There have been no such acquisitions.

## PART III: CONSTRAINTS ON MARKET POWER BY EXISTING COMPETITION

Note: the following sections A and B respond to questions 16 – 26 in Part III of the Commission’s clearance application form. Questions 16 – 26 are repeated in section B again to reflect the numbering in the application form.

### A. Domestic roofing market

#### Existing competitors

#### 16. In the market or markets, who are the suppliers of competing products, including imports?

The post-Acquisition market shares in the domestic roofing market (based on volumes) are shown in the table below.

Firm	Market share	Material(s)
CSR (Monier)	[ ]%	Concrete tiles
Ross Roofing	[ ]%	Concrete tiles
<b>Combined entity</b>	<b>[ ]%</b>	
Fletchers (AHI/Gerard and Dimond)	[ ]%	Long run metal and metal tiles
Metalcraft/Shandaria Corp	[ ]%	Long run metal
Stratco (South Island only)	[ ]%	Long run metal and metal tiles
Calder Stuart (South Island only)	[ ]%	Long run metal
Steel & Tube	[ ]%	Long run metal
Others (e.g. regional roll-formers)	[ ]%	Long run metal
<b>Total</b>	<b>100%</b>	

Source: CSR

In the Fletcher decision, the Commission said that the level of existing competition would constrain the combined entity post-acquisition. CSR believes that a similar conclusion is relevant in respect of the Acquisition, given the market shares of the Fletchers entities in particular, and other competitors such as Steel and Tube and Metalcraft. The level of competition in this market is evidenced by the fact that prices have increased only 9% in the last five years, while CPI has risen 39% in the same period.

However, for completeness, the other relevant competition factors are considered below.

#### Other considerations

#### 16.1 Please identify any firms that are not currently producing the product in the market, but could enter the market quickly (using essentially their existing productive capacity) in response to an attempt by suppliers to raise prices or reduce output or quality ('near entrants').

CSR believes that Boral and Bristile, two major Australian suppliers of bricks and tiles could readily import concrete tiles from Australia should there be an incentive to do so, and indeed

Bristile, trading as Austral Bricks in New Zealand, already imports small volumes of concrete tiles into New Zealand.

Both firms already compete strongly against locally manufactured bricks and would be well placed to expand their existing New Zealand operations to include more significant imports of concrete tiles. CSR does not believe there would be any significant impediments to entry in the supply of other types of domestic roofing materials. For long run metal roofing and metal tiles, CSR believes any person, familiar with the domestic roofing market, who has the capital to purchase the required equipment could enter the market. CSR understands that equipment would cost approximately \$500,000 for long run metal roofing and in the vicinity of \$1-1.5m for metal tiles.

**16.2 Estimate the productive capacity that such near entrants potentially could bring to the market.**

CSR understands that Boral and Bristile have idle capacity that is collectively many times greater than the total existing volumes of New Zealand produced tiles. The effect of such suppliers entering the domestic roofing market would be very significant.

CSR believes there would be no undue capacity constraints on production with respect to metal tiles and long run metal roofing.

**16.3 Please indicate the extent to which imports provide a constraint on domestic suppliers. What costs are incurred by importers that are not incurred by domestic suppliers? How sensitive is the domestic price of imports to changes in the New Zealand dollar exchange rate?**

Currently, Bristile imports small volumes of concrete tiles into the New Zealand market. CSR believes Bristile are well placed to expand their production given the incentive to do so. Additionally, CSR believe Boral could readily import concrete tiles into New Zealand. These firms are able to produce tiles at a lower cost than their New Zealand counterparts due to higher plant volumes. CSR believes these production efficiencies would offset some of the freight costs incurred through importation. Therefore the potential entry or expansion of imports is a significant threat in the event of small upward price movements. This threat poses a considerable constraint on domestic suppliers

**16.4 To what extent is the product exported?**

The product is not exported.

**16.5 Please indicate whether the 'target company' could be described as a vigorous and effective competitor, taking into account its pricing behaviour, its record of innovation, its growth rate relative to the market, and its history of independent behaviour.**

CSR does not believe that Ross Roofing has behaved in such a way as to suggest that it is a "maverick" in any market. CSR understands that pricing levels have been very stable over time across all competitors in the domestic roofing market due to the low margins that are a feature of the market.

## Conditions of expansion

**17. The following listing gives different types of market conditions that may affect the ability of existing firms to expand:**

- **Frontier entry conditions, e.g. tariffs, quarantine requirements, international freight costs.**
- **Legislative/regulatory conditions, e.g. meat licensing, Resource Management Act requirements, health and safety standards.**
- **Industrial/business, e.g. access to raw materials, critical inputs, economies of scale, access to technical knowledge requirements, capital requirements (and capital market's perception of the risk and return), sunk costs (i.e. irrecoverable or exit costs), influence of branding and sales promotion, technical specifications.**
- **Other, e.g. responses to expansion by major firms; lack of additional productive capacity; additional productive capacity has a relatively high cost.**

**Which, if any, of the conditions identified above do you consider would be likely to act as a barrier to the expansion of existing competitors, where they have the incentive to do so in response to a sustained effort by the combined entity to raise price, or to lower service or product quality?**

**Please provide evidence, where available, of expansion by existing competitors in the relevant markets during the past five years.**

CSR does not believe that there are any market conditions, including those identified above, that would affect the ability of existing firms to expand.

In the Fletcher decision, the Commission found that barriers to both entry and expansion are low for roll-formed steel roofing, metal tiles and concrete tiles. In respect of concrete tiles, the Commission noted that the manufacturing process is not unduly technical, nor is it particularly expensive to commence operations.

CSR agrees with the Commission's observations in the Fletcher decision and does not consider that there have been any changes in the industry that would cause the Commission to reach a different view in relation to barriers to entry and expansion.

In terms of conditions of entry specifically, CSR believes that the cost of a new plant with a similar capacity to CSR's Takanini plant would be approximately \$[ ], assuming the land and buildings would be leased. CSR considers this would necessitate a return on capital at the EBIT level of \$[ ], which it believes is quite achievable. Such a plant would take approximately 18 months to commission and build.

Given the Commission's previous observations on barriers to entry and expansion and CSR's view that these observations remain relevant to the Acquisition, CSR does not give further consideration to conditions of entry or expansion in this application. It is happy to provide further information if the Commission would like it to do so.

**18. Please name any business which already supplies the market – including overseas firms – which you consider could increase supply of the product concerned in the geographic market by any of the following means:**

- **Diverting production into the market (e.g. from exports).**



- **Increasing utilisation of existing capacity.**
- **Expansion of existing capacity.**

**Specify in each case which of the above three points applies.**

CSR believes that any of the long run metal suppliers listed in the table of competitors at section 16 could increase their supply by increasing their utilisation of existing capacity. The only limitation on these suppliers' ability to utilise their existing capacity would be in terms of there being adequate installation labour available.

In addition to the existing suppliers named, Bristile (based in Australia) already imports small volumes of tiles into New Zealand.. CSR believes Bristile could readily increase their supply into the New Zealand market should there be an incentive to do so, particularly when demand is low in Australia (so as to make use of otherwise idle capacity).

19. **Of the conditions of expansion listed above, which do you consider would influence the business decision in each case to increase supply?**

Not applicable.

20. **How long would you expect it to take for supply to increase in each case?**

CSR believes that firms such as Boral and Bristile could respond to an opportunity to increase their existing supplies (such as in the event of an increase in local selling prices) within the space of a few days.

21. **In your opinion, to what extent would the possible competitive response of existing suppliers constrain the merged entity?**

CSR believes that the relative influence of the existing suppliers in the domestic roofing market will remain constant (taking into account the post-Acquisition combination of CSR and Ross Roofing Drafting) provided that selling prices remain consistent. If the combined entity were to attempt a price increase, CSR believes the effect of this would be that customers would simply prefer long run metal roofing or metal tiles over concrete tiles, and vice versa or customers would encourage further importation by Bristile or Boral.

22. **Looked at overall, and bearing in mind the increase in market concentration that would be brought about by the acquisition, to what extent do you consider that the merged entity would be constrained in its actions by the conduct of existing competitors in the markets affected?**

On the basis of the above factors, CSR believes that the merged entity would be entirely constrained by its existing competitors (including importation of concrete tiles) post-Acquisition.

### 23. Coordinated market power (also incorporating the responses to questions 24 – 26)

Whether an acquisition will increase the scope for the exercise of co-ordinated market power depends on the degree of market share concentration, the product in question, and the nature of the competitive process in the relevant market(s). In considering the scope for co-ordinated conduct, it is necessary to assess whether the market currently shows signs of co-ordinated market power, and assess whether the acquisition affects any of those factors currently precluding or facilitating the exercise of co-ordinated market power.

The following table assesses the various factors of the domestic roofing market against the various factors that the Commission considers indicate the scope of coordinated conduct, and the impact of the Acquisition on those factors.

Scope for co-ordinated market power	Present	Effect of Acquisition
High seller concentration	Yes (CR3>70%)	No significant increase
Undifferentiated product	Some differentiation	No change
Static production technology	Yes	No change
New entry slow	No	No change
Absence of fringe competitors	In metal roofing, yes	No change
Acquisition of an unusually vigorous or effective competitor	No	No change
Price inelastic market demand	No	No change
History of co-ordinated conduct	No	No change
Absence of countervailing power of acquirers	No	No change
Existence of excess capacity	Yes	No change
Industry associations/fora	Yes	No change
Detection of deviation from co-ordination	Present	Effect of Acquisition
High Seller concentration	Yes (CR3>70%)	No significant increase
Frequent sales	Yes	No change
Vertical integration	Yes	No change
Growth in demand	No	No change
Cost similarities	Yes	No change
Multi market contact	Yes	No change
Price transparency	No	No change

In CSR's view, the market does not currently display signs of co-ordinated market power. The main factors currently precluding the exercise of coordinated market power are:

- pricing is not highly visible;
- products are relatively differentiated;
- sales are relatively frequent; and
- there are some large customers such as building groups and residential property developers.

As the table above indicates, none of the factors currently precluding co-ordinated conduct will change as a result of the Acquisition and hence the Acquisition cannot be said to facilitate tacit collusion.

### **Note on distributors**

As noted above, the supply market involves the supply of roofing materials to distributors. Given that post-Acquisition, the combined entity would be the only supplier of concrete roofing tiles, it is relevant to consider the effect of the Acquisition on distributors. CSR submits that the Acquisition would not have any effect on its distributors, for the following reasons:

- The price at which concrete tiles are supplied to distributors (which in turn, supply customers with an installed roof) is constrained by the price of metal roofing materials, such that post-Acquisition, the combined entity would not be in a position to increase prices, even though it would be the sole supplier of concrete tiles. CSR believes that if it were to do so, it would immediately lose market share to suppliers of metal tiles and long run metal roofing so as to render any such price increase unprofitable.
- Further, of a total of 42 national CSR distributors, 10 currently fix both concrete and metal roofs. These distributors would simply favour metal roofs if the price of concrete tiles were to increase. There are not significant differences between the installation of concrete and metal roofs, the only differences being in terms of how the roof is attached. In addition, many installers, whose businesses are concerned with concrete tiles only, do in fact have some experience in installing metal roofs, and could easily reconfigure their businesses to metal installation should there be an incentive to do so.
- In any event, while there are 32 CSR distributors whose businesses involve only concrete roofs, these people could easily acquire the skills to fix metal roofs (if they did not already have such skills) such that the Acquisition would not foreclose "concrete-only" installers' access to the market. Acquiring skills in metal installation would involve approaching a metal contractor and working with that contractor for one or two months in order to learn the relevant skills. Given the current shortage of roofing installers, contractors would be very willing to employ extra staff for even a short period of time.

Given the above factors, the Acquisition would not affect any distributor's ability to compete for the supply of installed roofs.

### **Conclusion for the domestic roofing market**

CSR believes that the constraint imposed by the conduct of existing competitors would be sufficient to ensure that competition would not be substantially lessened in the domestic roofing market (or either of the supply and fixing markets).

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Therefore, in accordance with the Commission's explanatory note for completing the application, CSR elects not to answer any further questions at this stage, but is happy to provide written answers to any further questions if the Commission would like it to do so.

<b>B. Auckland and Waikato supply and fixing markets</b>
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Note: the numbering in this section B reflects the numbering in the Commission's application form with respect to the Auckland and Waikato supply and fixing markets.

### Existing competitors

16. In the market or markets, who are the suppliers of competing products, including imports?

#### Auckland supply and fixing market

The post-Acquisition market shares in the Auckland supply and fixing market (based on volumes) are shown in the table below.

Firm	Market share	Material(s)
CSR (Monier)	[ ]%	Concrete tiles
Ross Roofing	[ ]%	Concrete tiles
<b>Combined entity</b>	<b>[ ]%</b>	
Fletchers (AHI/Gerard and Dimond)	[ ]%	Long run metal and metal tiles
Metalcraft/Shandaria Corp	[ ]%	Long run metal
Others (e.g. regional roll-formers)	[ ]%	Long run metal
<b>Total</b>	<b>100%</b>	

Source: CSR

As the above table indicates, post-Acquisition the combined entity would be constrained by two large competitors, and a number of small competitors, for the supply and fixing of roofs in Auckland.

As noted above with regard to the domestic roofing market, in the Fletcher decision, the Commission said that the level of existing competition would constrain the combined entity post-acquisition. CSR believes that a similar conclusion is also relevant in respect of the Acquisition, given the presence of similar competitors in the Auckland supply and fixing market and the significant market shares of those competitors.

#### Waikato supply and fixing market

The post-Acquisition market shares in the Waikato supply and fixing market are shown in the table below.

Firm	Market share	Material(s)
Monier	[ ]%	Concrete tiles
Ross	[ ]%	Concrete tiles
<b>Combined entity</b>	<b>[ ]%</b>	
Fletchers (Dimond)	[ ]%	Long run metal
Metalcraft/Shandaria Corp	[ ]%	Long run metal
Steel & Tube	[ ]%	Long run metal
Others (e.g. regional roll-formers)	[ ]%	Long run metal
<b>Total</b>	<b>100%</b>	

Source: CSR

As the above table indicates, post-Acquisition the combined entity is likely to be constrained by three large competitors, and other smaller competitors, for the supply and fixing of roofs in the Waikato.

As with the Auckland supply and fixing market, CSR believes that the level of existing competition would sufficiently constrain the combined entity post-Acquisition.

However, for completeness, the other relevant competition factors are considered below.

## **Other considerations**

### **16.1 Please identify any firms that are not currently producing the product in the market, but could enter the market quickly (using essentially their existing productive capacity) in response to an attempt by suppliers to raise prices or reduce output or quality ('near entrants').**

CSR believes that it would be relatively easy for the potential entrants in the supply market, namely Boral and Bristile, to enter the local fixing market. Such firms would only have to approach any independent roofing contractor to install the tiles. These contractors currently float between suppliers to ensure they have a continuous stream of work. Alternatively, the potential entrants could bring fixers from their Australian operation when demand in their home markets is subdued.

Potential entrants could also employ fixers directly. This is an attractive option for fixers who are starting out in the business because they do not have to chase work to maintain their income. This work would be provided by the employer.

### **16.2 Estimate the productive capacity that such near entrants potentially could bring to the market.**

CSR believes, given that fixing capacity is currently in excess of sales due to the current market downturn, a potential entrant would probably approach a fixer already in the market rather than train new fixers and further expand capacity. Established companies, including CSR and Ross Roofing, work with their contractors and directly employed fixers to train and develop more fixers. Productive capacity is only then constrained by the market. i.e. CSR expand training to suit sales volumes.

### **16.3 Please indicate the extent to which imports provide a constraint on domestic suppliers. What costs are incurred by importers that are not incurred by domestic suppliers? How sensitive is the domestic price of imports to changes in the New Zealand dollar exchange rate?**

Please see the response to this question in section A on the domestic roofing market.

### **16.4 To what extent is the product exported?**

The product is not exported.

### **16.5 Please indicate whether the 'target company' could be described as a vigorous and effective competitor, taking into account its pricing behaviour, its record of innovation, its growth rate relative to the market, and its history of independent behaviour.**

Please see the response to this question in section A on the domestic roofing market.

### Conditions of expansion

17. **The following listing gives different types of market conditions that may affect the ability of existing firms to expand:**

- **Frontier entry conditions, e.g. tariffs, quarantine requirements, international freight costs.**
- **Legislative/regulatory conditions, e.g. meat licensing, Resource Management Act requirements, health and safety standards.**
- **Industrial/business, e.g. access to raw materials, critical inputs, economies of scale, access to technical knowledge requirements, capital requirements (and capital market's perception of the risk and return), sunk costs (i.e. irrecoverable or exit costs), influence of branding and sales promotion, technical specifications.**
- **Other, e.g. responses to expansion by major firms; lack of additional productive capacity; additional productive capacity has a relatively high cost.**

**Which, if any, of the conditions identified above do you consider would be likely to act as a barrier to the expansion of existing competitors, where they have the incentive to do so in response to a sustained effort by the combined entity to raise price, or to lower service or product quality?**

**Please provide evidence, where available, of expansion by existing competitors in the relevant markets during the past five years.**

As noted with respect to the domestic roofing market, CSR does not believe that there are any market conditions in the supply and fixing markets that would affect the ability of existing firms to expand.

18. **Please name any business which already supplies the market – including overseas firms – which you consider could increase supply of the product concerned in the geographic market by any of the following means:**

- **diverting production into the market (e.g. from exports)**
- **increasing utilisation of existing capacity**
- **expansion of existing capacity.**

**Specify in each case which of the above three points applies.**

Please see the response to this question in section A on the domestic roofing market.

19. **Of the conditions of expansion listed above, which do you consider would influence the business decision in each case to increase supply?**

Not applicable.

**20. How long would you expect it to take for supply to increase in each case?**

Please see the response to this question in section A on the domestic roofing market.

**21. In your opinion, to what extent would the possible competitive response of existing suppliers constrain the merged entity?**

Please see the response to this question in section A on the domestic roofing market.

**22. Looked at overall, and bearing in mind the increase in market concentration that would be brought about by the acquisition, to what extent do you consider that the merged entity would be constrained in its actions by the conduct of existing competitors in the markets affected?**

On the basis of the above factors, CSR believes that the merged entity would be entirely constrained by its existing competitors post-Acquisition.

**23. Coordinated market power (also incorporating the responses to questions 24 – 26)**

Please see the response to this question in section A on the domestic roofing market.

**Conclusion for the Auckland and Waikato supply and fixing markets**

CSR believes that the constraint imposed by the conduct of existing competitors would be sufficient to ensure that competition would not be substantially lessened in the Auckland and Waikato supply and fixing markets.

Therefore, in accordance with the Commission's explanatory note for completing the application, CSR elects not to answer any further questions at this stage, but is happy to provide written answers to any further questions if the Commission would like it to do so.



Public Version

THIS APPLICATION is given by

Nick Pezet

I hereby confirm that:

- all information specified by the Commission has been supplied;
- all information known to the applicant which is relevant to the consideration of this application has been supplied; and
- all information supplied is correct as at the date of this application.

I undertake to advise the Commission immediately of any material change in circumstances relating to the application.

Dated this      day of      2008.

Signed by Nick Pezet:

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General Manager New Zealand  
MONIER Bricks & Roofing

I am an officer of the company and am duly authorised to make this application.