



AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY

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Our Ref: FW:LE/03240

Ph: 9841 8619
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The Regional Director
Australian Competition and Consumer Commission
GPO Box 3648
SYDNEY NSW 2001

Dear Sir/Madam

**LANDCOM & NEW SOUTH WALES LAND & HOUSING CORPORATION
NOTIFICATION OF EXCLUSIVE DEALING**

Please find **attached** executed Notification of Exclusive Dealing dated 13 September 2007 in accordance with subsection 93(1) of the Trade Practices Act 1974 and Landcom's cheque in the amount of \$200.00 being payment of the prescribed fee.

I look forward to receiving advice that the notification has been placed on the ACCC's public register.

Yours faithfully

**Frances Wilmore
Manager Legal**

Encl.



Level 2, 330 Church Street
Parramatta NSW 2150
PO Box 237 Parramatta NSW 2124
DX 29448 Parramatta
ABN 79 268 201 684
Telephone 61 2 9841 8600
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FORM G

Commonwealth of Australia

Trade Practices Act 1974 – Subsection 93(1)

NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in subsection 47(2), (3), (4), (5), (6) or (7), or paragraph 47(8) (a), (b), or (c) or 9(a), (b), (c) or (d), of that Act in which the person giving notice engages or proposes to engage.

1. Applicant

(a) Name of person giving notice:

(Refer to direction 2)

New South Wales Land and Housing Corporation, ~~and~~ N93115

~~Landcom ABN 79 268 260 688~~ *EB*

(b) Short description of business carried on by that person:

(Refer to direction 3)

Developing residential property in Minto, New South Wales ("**Minto Renewal Project**"). The **Minto Renewal Project** involves the development of residential housing estates and the marketing and sale of house and land packages for residential purposes by Landcom for New South Wales Land and Housing Corporation.

(c) Address in Australia for service of documents on that person:

C/- Landcom
Level 2
330 Church Street
Parramatta NSW 2150

Attention: Frances Wilmore
Phone: (02) 9841 8619
Fax: (02) 9841 8688

2. Notified arrangement

(a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

The New South Wales Land and Housing Corporation ("DoH") own approximately **84** hectares of land in Campbelltown, New South Wales (see Appendix 1 for title particulars) ("**the Development Land**"). DoH and Landcom have entered into an agreement whereby DoH has authorised Landcom on its behalf to develop the Development Land as residential housing known as "**Minto Renewal Project**". DoH will be the vendor and Landcom will be marketing the created residential lots on DoH's behalf ("**Minto Renewal Project**").

On 30 June 2006, the NSW Minister for Planning approved a Concept Plan over the Development Land identified in Appendix 1, which establishes the broad subdivision layout and development concepts. As part of this approval, a site specific Development Control Plan was adopted by Campbelltown City Council and came into force on 26 April 2006. A Planning Agreement will also be executed as part of the first subdivision application, to control the provision of major public works across the project.

The Development Land will be subdivided into residential lots in a staged development process over a period of approximately 7 to 8 years. A total of approximately 1150 lots and dwellings are proposed comprising a tenure mix of 30% public housing and 70% private ownership. A mixture of lot sizes is also proposed, ranging in size from 300 square metres through to 4,000 square metres.

To deliver the housing component of the project, Landcom is establishing a Builder Team comprising four (4) pre-selected partner builders ("**Partner Builders**"). It is intended that these Partner Builders will market the majority of the private residential lots created by Landcom as house and land packages. Landcom will retain a small pool of lots within each development stage, either for further allocation to the Partner Builders or for direct sale to a purchaser who agrees to construct a dwelling with one of Landcom's Partner Builders.

(b) Description of the conduct or proposed conduct: (Refer to direction 4)

After the Development Land has been subdivided into residential lots, Landcom and the Partner Builders will market the residential lots on behalf of DoH to purchasers as house and land packages. DoH and Landcom are not involved in the construction of houses on these residential lots that are sold to purchasers.

Landcom and the Partner Builders propose to market house and land packages to purchasers on behalf of DoH at prices which are generally lower than in circumstances where a prospective purchaser seeks to make

independent arrangements for the purchase of an equivalent block of land and the engagement of a builder to construct equivalent improvements.

When a purchaser enters into a contract for sale with DoH to acquire a residential lot, the purchaser will be required to enter into a second, collateral, contract with a Partner Builder for the construction of a house on the residential lot. It will be a condition of the contract of sale that the purchaser enters into the construction contract ("**Construction Contract**").

The contract for sale will stipulate that the builder with whom the purchaser must enter into the Construction Contract will be one of four (4) Partner Builders pre-selected by Landcom on the basis of experience, standard of workmanship and the capability of their designs to meet the complexities of building on smaller lots.

The Partner Builders that have been selected by Landcom are as follows:

- 1) Clarendon Residential Group Pty Limited - ACN 003 892 706;
- 2) AV Jennings Pty Limited - ACN 004 601 503;
- 3) Wisdom Properties Group Pty Limited – ACN 089 425 829 and
- 4) Rawson Homes Pty Limited – ACN 053 733 841.

The Partner Builders have been selected by Landcom against the following criteria:

- strong professional integrity;
- large portfolio of contemporary housing designs offering good variety throughout the site;
- resource capacity to deliver a variety of housing products in line with expected demand;
- strong balance sheet enabling them to carry out the required building works;
- substantial evidence of building quality homes;
- evidence that a number of houses can be started on time and completed in the required construction time frame;
- sound understanding of best practice residential design principles;
- strong understanding of energy efficient and sustainable design principles and evidence that these principles have been incorporated into current designs;
- understanding of the local market conditions, including its expectations and price points and ability to deliver new housing product accordingly; and
- position within a builder team that can deliver both volume and custom design housing.

Other builders may be appointed in the future who also meet these criteria.

Lots available for house and land packages from the Partner Builders will generally be located on allotments that are 10m, 12m, 15m or 18m wide. Each Partner Builder will be required to prepare a suite of designs for these

different allotment types, to form part of a wider collection of homes that are all pre-approved by Landcom.

As a condition of the contract for sale of the residential lots, the purchasers will be required to enter into a Construction Contract with one of the four Partner Builders to build a house from the range of pre-approved designs prepared specifically for the size/frontage of that residential lot. This requirement is intended to provide purchasers with certainty that the residential lots are not developed in an architectural style that is incongruous with the prevailing architectural style of the project, and to ensure that dwelling design respects sound design principles. Architectural requirements are also contained within the approved Minto Development Control Plan.

There is a possibility, which is not admitted by Landcom, that the proposed conduct contravenes or will contravene sections 47(6) and 47(7) of the *Trade Practices Act 1974*.

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

(a) Class or classes of persons to which the conduct relates:
(Refer to direction 5)

Members of the public who acquire a residential lot in the Development.

(b) Number of those persons:

(i) At present time:

Nil

(ii) Estimated within the next year:
(Refer to direction 6)

100

(c) Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:

Not applicable

4. Public benefit claims

(a) Arguments in support of notification:
(Refer to direction 7)

Landcom considers that the proposed conduct will benefit the public because it will enable Landcom on behalf of DoH to offer house and land

packages for sale at prices that Landcom considers are lower than where a purchaser makes arrangements to purchase a completed house and land package or to purchase land and separately engage a builder of the purchaser's own choice. Also, the purchaser has the choice of house and finish they require which meets the standard and style of the precinct being developed.

Landcom considers that the requirement that purchasers select from a range of pre-approved designs suited to land size (and consequently appoint one of four Partner Builders) is beneficial to consumers for a number of reasons:

- Each Partner Builder should be assured a reasonable volume of work. This in turn will enable each builder to generate considerable economies of scale particularly in relation to the purchase of building supplies and supply of labour so that these cost benefits may be passed onto the purchaser. Therefore, Landcom anticipates that consumers would ultimately benefit from the proposed conduct due to more affordable house and land packages. Each Partner Builder will be competing against other Partner Builders for business, therefore, the house prices will necessarily be competitive. The purchaser has a free choice to select any one of the Partner Builders.
- Since Partner Builders will have a degree of assurance of receiving a reasonable volume of building work, the establishment of a display dwelling(s) at the Partner Builder's own expense on the Minto Renewal Project becomes a feasible exercise. Some 9 dwellings (being a minimum of 2 display homes per Partner Builder) are proposed to be constructed within the display village, showcasing some of the designs available from the Partner Builder's collection of pre-approved house designs. This will benefit purchasers significantly, affording the purchaser with the opportunity to consider and appraise on-ground building designs/products that they may be purchasing under the Construction Contract before they actually commit to the purchase.
- In addition to the house and land packages on offer from the Partner Builders, purchasers will be able to select and acquire land which is suitable for particular house designs. Since Partner Builders will have pre-designed houses for each of the varying lot types, there is no need for radical design amendments to be made to ensure appropriate design outcomes for the lot being purchased. Therefore the cost of modifying a particular design to suit a particular block of land in terms of time and money is avoided by the purchaser.

(b) Facts and evidence relied upon in support of these claims:

Purchasers will receive some certainty on the quality and architectural design of the street and wider project in general, in which they are buying. Purchasers will have certainty that neighbouring residential lots will not be developed in an architectural style that is inconsistent with the prevailing architectural style of the Project. Moreover, the initial design approval process will ensure that dwellings are appropriate for the size of the allotments, thereby improving the quality of residential development.

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

(Refer to direction 8)

The relevant market is the Campbelltown region in New South Wales for the supply of residential property and house and land packages.

This market is highly competitive where suppliers compete vigorously and frequently for customers. There are a large number of alternative land developers in New South Wales offering extensive competition to Landcom in relation to the supply of residential property and house and land packages.

6. Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:**

(Refer to direction 9)

The proposed conduct will not result in public detriment as there are other large and vigorous estates where purchasers can obtain house and land packages, vacant land and residential building services in close vicinity to the Development Land such as Mount Annan, Harrington Park and Camden Acres.

- (b) Facts and evidence relevant to these detriments:**

Should prospective purchasers not be satisfied with the range of dwelling designs pre-approved for lots in the Development Land, there is the opportunity for surrounding developments to be considered that may offer an alternative method of delivering house and land packages.

7. Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

C/- Landcom
Level 2
330 Church Street
Parramatta NSW 2150

Attention: Frances Wilmore
Phone: (02) 9841 8619
Fax: (02) 9841 8688

Dated 13/09/07

Signed by/on behalf of the applicant



(Signature)

FRANCES WILMORE

(Full Name)

LANDCOM

(Organisation)

MANAGER LEGAL

(Position in Organisation)

Dated 13/09/07

Signed by/on behalf of the applicant



(Signature)

CHRIS VACCARO

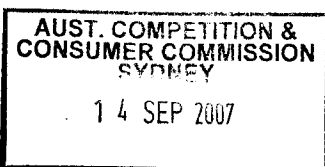
(Full Name)

HOUSING

(Organisation)

Assistant Director Legal Services

(Position in Organisation)



DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the Trade Practices Act 1974 have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.