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Our ref: BNS:6MC:100121

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3 March 2010

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
Dickson ACT 2602 **Express Post**

**FORM G - NOTIFICATION OF EXCLUSIVE DEALING**


We act for Urbex Pty Ltd, Langroup Pty Ltd and Dilan Corp Pty Ltd.

We enclose the following:-

1. Form G - Exclusive Dealings Notification; and
2. Cheque in the sum of \$300.00 in payment of the notification fee.

**connollysuthers**

Yours faithfully,



Brad Skinner  
Partner

Direct phone: 4729 6611  
Email: [brad.skinner@connollysuthers.com.au](mailto:brad.skinner@connollysuthers.com.au)  
Assistant: Renee Lovelady  
Direct phone: 4729 6656

AMP BUILDING  
416 FLINDERS MALL  
TOWNSVILLE QLD 4810  
  
P.O. BOX 991  
TOWNSVILLE QLD 4810

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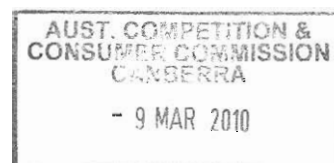
L A W Y E R S

**telephone**  
(07) 4771 5664

**facsimile**  
(07) 4772 5742

**email**  
[law@connollysuthers.com.au](mailto:law@connollysuthers.com.au)

**website**  
[www.connollysuthers.com.au](http://www.connollysuthers.com.au)



## 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 subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

#### 1. Applicant

(a) Name of person giving notice:

N94551

Urbex Pty Ltd ACN 102 865 823 (Urbex)

N94552

N94553

Langroup Pty Ltd ACN 056 767 787 and Dillan Corp. Pty Ltd

ACN 058 636 481 (Langroup and Dillan Corp)

(together referred to as Urbex)

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

**Urbex is developing residential land owned by Langroup and Dillan Corp located at Hervey Range Road, Townsville known as Kalynda Chase Estate (Kalynda Chase). The Kalynda Chase development involves the development of residential housing allotments and the marketing of land and house and land packages for residential purposes.**

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

**C/- Connolly Suthers Lawyers,**

**PO Box 991, Townsville, Qld, 4810,**

**Attention: Brad Skinner,**

**Phone (07) 4771 5664,**

**Fax (07) 4772 5742**

**2. Notified arrangement**

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

**Urbex has entered into a development agreement with Langroup and Dilan Corp. whereby Langroup and Dilan Corp. have authorised Urbex to develop and market residential lots within Kalynda Chase on their behalf.**

**The Townsville City Council has approved the development of six (6) allotments and the construction of six (6) dwelling houses part of Kalynda Chase Estate.**

**This notice relates to the sale of a House and Land package for Lot 797 on SP 229796.**

- (b) Description of the conduct or proposed conduct:

**Urbex proposes to market the sale of the residential lot as a house and land package.**

**When a buyer enters into a contract to purchase the vacant allotment, the buyer will also be required to enter into a contract with a builder nominated by Urbex for the construction of a dwelling on the allotment.**

**The contract for the sale of the allotment will specify the builder with whom the buyer must enter into the construction contract (the Builder).**

**The contract for the purchase of the allotment will be conditional upon the buyer entering into the contract for the construction of the dwelling with the Builder.**

*(Refer to direction 4)*

**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)*

- **Persons looking to purchase house and land packages;**
- **The builder nominated by Urbex.**

- (b) Number of those persons:

- (i) At present time:

**Nil**

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

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(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)

**For the reasons outlined below it is not practical for a buyer of this allotment (Lot 797 on SP229796) to appoint individual builders to construct a dwelling.**

**The appointment of a single Builder to complete the improvements will be of benefit to the public as it will:-**

- **Avoid the need for amended Development Applications for Reconfiguring a Lot as the appointed builder has secured development approval over the identified 'small lot' based on the design submitted reducing time delay and additional approval costs for buyers;**
- **help ensure a quality standard of dwelling consistent with the architectural intent of the locality;**
- **improve contractual rights of the buyer.**

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

**Standard of Improvements**

**The development permit issued by the Townsville City Council for the reconfiguration of Lot 797 contemplates the development of a single approved building design provided by the builder.**

**The style and design of the dwelling to be constructed has been pre-approved by the Townsville City Council.**

**The pre-approved dwellings have been designed:-**

- **to meet Planning Scheme Codes of Townsville City Council and the established amenity of Kalynda Estate;**
- **specifically to cater for the smaller allotment.**

**The appointment of a single builder will ensure that the builder has a detailed knowledge of the requirements of the development approval and in particular the building design guidelines and specific site conditions.**

**The pre-approval of the house design on the small allotment will provide Urbex, the Townsville City Council and the buyers of the allotment certainty of a sustainable dwelling in a style consistent with the architectural elements of the locality of which will ensure that the dwelling constructed comply with sound architectural and building construction principles.**

### **Construction Costs**

**The participating builder has prepared a design to meet the requirements of Townsville City Council and to secure associated planning approval and has sought to ensure efficient and sustainable design which would result in lower construction costs which will be passed on to reduce costs for buyers.**

**As the builder is constructing a similar small lot dwelling on adjoining Lot 798 he will be in a position to obtain savings from purchasing materials in larger volumes and will be able to reduce overall labour costs through the construction of multiple dwellings.**

**As the dwellings are to be constructed on adjoining allotments, if a single builder is appointed there is an opportunity for further savings as trades will be able to move from one dwelling to the next and labour and materials will be able to be more easily accessed and utilised throughout the development.**

### **Other Benefits**

**The appointment of a single builder will assist the Townsville City Council in the processing of the building applications.**

**The allotments to be created within the development are small lots which will have minimal, and in some case zero setback requirements. For workplace health and safety reasons it is not desirable to have multiple builders on site.**

**The Builders knowledge of the design guidelines will reduce the possibility of disputes arising in regard to the compliance with the design guidelines and building defects.**

**Allowing buyers to enter into a construction contract direct with the builder provides the buyer with contractual rights. If buyers were to purchase house and land packages direct from Urbex then they would have to rely on Urbex as the party to the building contract to enforce their contractual obligations under the building contract.**

**By allowing the buyer to enter into a contract to purchase the unimproved allotment before building works commence the amount of stamp duty payable by the buyer will be reduced as duty is calculated on the value of the land including improvements.**

**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 residential land market for the Townsville region which includes approximately 600 allotments at any one time.**

**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)*

**Urbex has not identified any public detriment arising from the proposed arrangement.**

**The price of goods and services in the market place will not be effected by the conduct as there is ample competition for the sale of residential land and the construction of residential dwellings in the Townsville region.**

**Buyers are able to compare the price of the house and land packages offered on Lot 797 with other housing products and options including existing housing, vacant lot prices and house and land packages offered by competitors.**

**Other house and land packages are being offered by a range of builders for the construction of houses on standard allotments within Kalynda Chase.**

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

**Given the size of the Townsville property market and the single lot involved in this development any adverse impact on competition would be negligible. There are many other sources of supply of house and land packages and existing dwellings.**

7. **Further information**

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

**Brad Skinner, Partner**

**Connolly Suthers Lawyers,**

**PO Box 991, Townsville, Qld, 4810**

**Telephone: (07) 4771 5664**

**Fax: (07) 4772 5742**

Dated..... 3/3/10 .....

Signed by/on behalf of the applicant

.....  


(Signature)

Neil William Bennett  
(Full Name)

Urbex Pty Ltd  
(Organisation)

General Manager North Queensland  
(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 the 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.