

Your Ref:
Our Ref: LP: 101681
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ACCC
16 AUG 2010
PERTH

12 August 2010

Australian Competition & Consumer Commission
PO Box 6381
EAST PERTH WA 6892

Dear Sir/Madam,


NOTIFICATION OF EXCLUSIVE DEALING

We act for the Western Australian Land Authority trading as LandCorp.

We enclose a Form G Notification relating to exclusive dealing on behalf of our client together with a cheque in the sum of \$100.00 in respect of your fee.

Please let us know if any further information is required in this matter.

Yours faithfully,



Philip Pullinger
Principal
Email: ppullinger@allionlegal.com.au

Enc

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:
(Refer to direction 2)

N94883

Western Australian Land Authority trading as LandCorp.....
.....

- (b) Short description of business carried on by that person:
(Refer to direction 3)

Development and sale of land in Western Australia
.....

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

Level 3

Wesfarmers House

40 The Esplanade

Perth WA 6000

2. Notified arrangement

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

See Annexure A attached
.....

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

See Annexure A attached

.....
.....
.....
(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)

See Annexure A attached
.....

- (b) Number of those persons:

- (i) At present time:

Not known
.....

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

Not known
.....

- (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)

Please see attached Annexure A
.....

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

Please see attached Annexure A
.....

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)

Please see attached Annexure A
.....

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)

Please see attached Annexure A

.....

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

Please see attached Annexure A

.....

7. Further information

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

David Tjhung

Level 3, Wesfarmers House

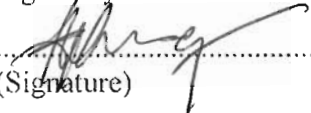
40 The Esplanade

Perth WA 6000

08 9482 7547

Dated... 11/8/10

Signed by/on behalf of the applicant


.....
(Signature)

David Tjhung

.....
(Full Name)

LandCorp

.....
(Organisation)

Project Officer

.....
(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.

ANNEXURE A

1. The Western Australian Land Authority (trading as LandCorp) is established pursuant to the Western Australian Land Authority Act ("**LandCorp**").
2. The object of LandCorp's Act includes the provision of residential land in a range of localities to meet the social and economic needs of the State of Western Australia.
3. Karratha is a regional town which is located approximately 1,560 kilometres north of Perth and features a population of approximately 12,500 people.
4. LandCorp is developing Stages 5, 6, 7 and 8A & B in a residential estate known as Baynton West in Karratha. Stage 5 comprises 200 single residential lots ranging in size from approximately 400 to 1200 square metres. Stage 6 comprises 120 single residential lots ranging in size from approximately 370 to 570 square metres. Stage 7 comprises 70 single residential lots ranging in size from approximately 494 to 664 square metres. Stage 8A comprises 51 single residential lots ranging in size from approximately 480 to 830 square metres and Stage 8B comprises 39 single residential lots from approximately 412-818 square metres.
5. LandCorp is committed to keeping the entry-level base price of land and, where possible, housing in the Baynton West Estate as low and affordable as possible to encourage first home buyers and families to settle permanently in the region. LandCorp is also committed to achieving the highest standards for residential development, encouraging new builders and introducing new innovative building practices and building materials to the Pilbara within this estate.
6. LandCorp has identified 150 lots out of the 480 lots available in the Baynton West Estate through Stages 5 to 8B which it proposes to offer to selected builders to construct innovative residences.
7. LandCorp will appoint a panel of selected builders ("**Panel Builders**") to develop these lots in accordance with LandCorp's requirements. The Panel Builders will be chosen on the basis of satisfying LandCorp's requirements in accordance with Item 5 above.
8. LandCorp will not offer any more than 30 lots per Panel Builder.
9. It is proposed that the Panel Builders will be able to market (in conjunction with LandCorp) "house and land packages" on these 150 residential lots. It will be a condition at the sale of those lots by LandCorp that the purchaser enters into a building contract with the Panel Builder who has been allocated the particular lot that the purchaser is interested in purchasing. Prime facie,

this proposal may amount to third line forcing under the provisions of the Trade Practices Act.

10. It is considered that the likely benefit to the public from the proposed conduct will outweigh the likely detriment to the public from the proposed conduct in that the conduct will encourage the Panel Builders to design homes of a high standard and which meet detailed design guidelines and are priced to attract first home buyers.
11. It is considered that the proposal will not have the effect of substantially lessening competition in the market for residential land and/or building services in Karratha or in the vicinity of the Baynton West Estate in that only 150 lots will be sold as house and land packages. From the 480 single residential lots in Stages 5 to 8B, 139 lots will be allocated for 'general release' lots to the public, approximately 60 lots will be allocated for key employers in the mining and resources industry in the Karratha and Baynton West region, approximately 50 lots will be allocated to local businesses, approximately 45 lots will be allocated to government agencies, approximately 22 lots will be allocated to the Murujuga Aboriginal Corporation, approximately 20 lots will be allocated to be a display village and 3 lots will be allocated to the Regional Environmental Affordable Living challenge. Approximately 9 of these lots will be allocated from an earlier stage release, leaving 150 lots for the house and land package opportunities.
12. LandCorp has worked with a number of builders in Karratha and will choose the Panel Builders for their product quality and form (including environmental performance benefits), ability to construct in a timely manner, capacity to deliver, commitment to develop innovative new housing and price competitiveness.
13. LandCorp will not receive any fee, commission or other financial reward in relation to the building contracts to be entered into between the Panel Builders and buyers of the lots.
14. Upon the release of all of the 480 residential lots (proposed to be in September 2010) with the exception of the 150 lots that are to be sold as house and land packages and the 39 lots being released pursuant to Item 16 below, LandCorp shall work with the Panel Builders to arrange the construction of a display village. The display village is intended to benefit the future purchasers of the house and land packages.
15. The 150 lots that are to be sold as house and land packages shall be made available for sale upon the completion of the construction of the display village, being between approximately October 2010 and April 2011.
16. Of the 139 lots allocated for 'general release' to the public, LandCorp shall make 39 of these available for sale in approximately February 2011 to March 2011.

17. In addition to the above 39 general release lots being made available around February 2011 to March 2011, LandCorp intends to release for sale in a development by LandCorp known as Madigan Road Estate Karratha approximately 200 vacant residential lots in June 2011.
18. Pursuant to a sale contract between LandCorp (as seller) and a private developer (as buyer), 150 built form residential apartments are due to be made available for sale in February 2011 to March 2011.