

Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — subsection 93 (1)
NOTIFICATION OF EXCLUSIVE DEALING

ACC
07 DEC 2011
PERTH

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Competition and Consumer Act 2010*, 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)

N95642

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 6
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:
(Refer to direction 4)

See Annexure A attached.

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.

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- (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)
See Annexure A attached.
- (b) Facts and evidence relied upon in support of these claims:
See Annexure A attached.

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)
See Annexure A attached.

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)
See Annexure A attached.
- (b) Facts and evidence relevant to these detriments:
See Annexure A attached.

7. Further information

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

Mr David Tjhung
Level 6, Wesfarmers House
40 The Esplanade
Perth WA 6000
(08) 9482 7547

Dated... 2 DECEMBER 201

Signed by/on behalf of the applicant

.....
(Signature)

DAVID TJHUNG
(Full Name)

WESTERN AUSTRALIAN LAND AUTHORITY TRADING AS LANDCORP
(Organisation)

PROJECT MANAGER
(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 *Competition and Consumer Act 2010* 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 permanent resident population of approximately 12,500 people.
4. LandCorp is developing two (2) residential estates in Karratha known as Baynton West Estate and Nickol West Estate and which are being developed in stages.
5. LandCorp is committed to keeping the entry-level base price of land, and where possible housing in the above Estates, as low and affordable as possible to encourage buyers and families who are owner occupiers to settle permanently in the region.
6. LandCorp has identified 68 single residential lots in Stages 1, 2, 3, 4, 5, 6, 7, 8A and 8B of the Baynton West Estate and one (1) single residential lot within Stage 3 of the Nickol West Estate which it proposes to offer to selected builders to construct residences.
7. LandCorp will appoint a panel of selected builders (“**Panel Builders**”) to develop these 69 single residential 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. It is proposed that the Panel Builders will be able to market (in conjunction with LandCorp) “house and land packages” (up to a maximum of 5 lots per builder) on these 69 single residential lots. It will be a condition of the sale of those lots by LandCorp that the purchaser enters into a building contract with the Panel Builder who has nominated 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 Competition & Consumer Act 2010.
9. 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.
10. It is considered that this 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 and Nickol West Estates.

11. All lots offered for sale by LandCorp within this next release of lots within the Baynton West and Nickol West Estates will be subject to the proposed house and land package arrangement the subject of this Notification. However, LandCorp proposes to release approximately a further 140 lots for sale to the public in approximately August 2012 within Stage 1 of its Madigan Road Estate, Karratha. Further, LandCorp has entered into agreements with developers who intend to subdivide, develop and sell lots within the vicinity of Baynton West and Nickol Estates (“**Developer’s Subdivisions**”) in approximately mid 2012 with many of the subdivided lots proposed to be offered by the developers for sale as vacant lots.

LandCorp can not confirm as at the date of this Notification the number of lots within:

- (a) Stage 1 Madigan Road Estate, Karratha (approximately 140 lots); or
- (b) the Developer’s Subdivisions,

which may be offered for sale subject to a house and land package arrangement. However, LandCorp proposes to offer a number of the lots within Stage 1 Madigan Road Estate to the public and not subject to any proposed house and land package arrangement.

12. LandCorp has worked with a number of builders in Karratha and will choose the Panel Builders for their product quality and form, ability to construct in a timely manner 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.