



AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY
30 AUG 2012

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28 August 2012

FILE No:
DOC:
MARS/PRISM:

Our Ref: FW:LE/10257

Ph: 9841 8619
Fax: 9841 8688
fwilmore@landcom.nsw.gov.au

The Regional Director
Australian Competition and
Consumer Commission
GPO Box 3648
SYDNEY NSW 2001

Dear

Landcom Exclusive Dealing Notification: Thornton North Penrith

Please find enclosed Exclusive Dealing Notification and application fee of \$100.00.

Please contact Frances Wilmore on 9841 8619 if you require any further information.

Yours sincerely

Frances Wilmore
Manager Legal

encls

30 AUG 2012

Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — 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 *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)

N96126 Landcom ABN 79 268 260 688

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

Landcom plays an important role in delivering the NSW Government's objectives for Sydney's urban growth and development. Landcom does this by creating places that provide the best possible foundation to build communities.

Landcom is the developer of property in North Penrith, NSW ("Thornton Project") which involves the development of a mixed use development, including residential housing. Development of the property will include the marketing and sale of house and land packages for residential purposes. Important elements of the Thornton Project are to provide housing affordability, demonstrate leading design and construction principles in ecologically sustainable development.

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

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:

Landcom owns approximately 40.6 hectares of land in North Penrith, NSW (see Appendix 1 for title details) (the “**Project Land**”).

Landcom will subdivide the Project Land into residential lots in a staged development process over approximately four precincts, over a period of six to eight years. A total of approximately 900 to 1000 dwellings are proposed, which will comprise a broad mix of low, medium and higher density housing, and will feature a range of smaller and specialised housing options.

Thornton is part of Landcom’s 21st Century Living Program which is intended to address:

- the provision of more diverse housing;
- more affordable housing; and
- to demonstrate that “House and Land Packages” can be used by developers and builders to deliver more diverse and more affordable housing at higher densities.

Landcom invited Builders who had expressed an interest in the 21st Century Living Program to submit proposals to participate in the design and construction of dwellings on the Project Land. From this request for proposals Landcom selected 9 builders to participate in the Project (the Builder Team).

Landcom proposes to market all of the residential lots as House and Land packages using one Project Sales Agent. The Builder Team will be required to enter into an exclusive agency agreement with the Project Sales Agent who will sell the Builder Team’s housing products to nominated purchasers of the Builders.

The sale of the residential lots will involve a purchaser as a nominee of a Builder under a call option, where the purchaser has entered into a separate contract with the Builder for the construction of a dwelling.

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

In order to participate in the Thornton Project each Builder will be required to enter into an exclusive agency agreement with Landcom’s selected Project Sales Agent.

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 *Competition and Consumer Act 2010*.

(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)

Builders who wish to participate in the Thornton Project.

- (b) Number of those persons:

- (i) At present time:

5

- (ii) Estimated within the next year:

(Refer to direction 6)

9

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

Champion Homes
Suite 1, Level 1,
600 Hoxton Park Road
Hoxton Park, NSW 2171

Firstyle Homes
Suite 6, level2,
138 Elizabeth Drive,
LIVERPOOL NSW 2171

Rawson Homes
Unit 34/11-21 Underwood Road
HOMEBUSH NSW 2140

Zac Homes
Level1, 232 Coreen Ave
PENRITH, NSW 2750

Eden Brae Homes
Level 3,
22 Brookhollow Ave,
Baulkham Hills NSW 2153

4. Public benefit claims

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

5 basic dwelling types will be offered at North Penrith - terrace, courtyard, detached and studio dwellings. These dwelling types offer more diversity and affordability and differ from the traditional form of housing common in the Penrith area. The key difference to traditional Penrith housing is that the homes are smaller and lot areas are much smaller. This requires a more holistic and integrated design and construction system, where houses are designed and built in groups. This creates better design and also construction efficiency gains for Builders.

The Project Sales Agent that Builders must engage on their behalf will assist purchasers through the relatively unusual and complex process of choosing a comparatively unusual dwelling type for the Penrith area and then becoming a nominee of the Builder who has an option over the land. Purchasers cannot access land directly from Landcom.

Having one Project Sales Agent selling all the House and Land packages within the Project will lead to efficiencies for Landcom, the Builders and the purchasers of the House and Land packages, and will result in reduced agency fees and lower overall cost to purchasers. This process is more efficient and simpler for purchasers than if each Builder had individual sales staff working on the Project.

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 Penrith region in NSW for the supply of residential property and house and land packages.

This is a highly competitive market where suppliers compete vigorously and frequently for customers. There are a number of other land developers in the general vicinity of Penrith 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 because there are other large estates in which Builders can participate for house and land packages, vacant land and residential building services in close vicinity (within 10-15 km) to the Project Land, such as those at Glenmore Ridge, Jordan Springs, Mulgoa Rise and Waterside.

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

If Builders are dissatisfied with the arrangements at North Penrith, Builders can consider several surrounding developments that may offer alternative methods of delivering house and land packages and vacant land.

7. Further information

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

Landcom	Attention:	Frances Wilmore
Level 2		Manager Legal
330 Church Street	Phone:	02 9841 8619
Parramatta NSW 2150	Fax:	02 9841 8688

Dated..... 27 August 2012.....

Signed by/on behalf of the applicant



.....
K L
.....
(Signature)

FRANCES CLARKE WILMORE
.....
(Full Name)

L ANDCOM
.....
(Organisation)

M ANNICK LEWIS
.....
(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 *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.

Appendix 1
Title Details – Project Land

Lot	Deposited Plan
1	1020994
1	33753
1	523379
11	1159973
2	1020994
3	1017480
4	1017480
4	1020994
5	1020994
6	1020994