



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)

N96475 **Chief Executive Officer (Housing), a body corporate sole established by the *Housing Act* (NT)**

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

The Chief Executive Officer (Housing) [CEOH] provides and assists in the provision of residential accommodation to eligible persons in the Northern Territory. This includes the provision of low interest loans, deposit loans, fee assistance loans and shared equity arrangements with persons resident in the Northern Territory who need assistance to purchase housing.

The Territory Insurance Office [TIO] is a body corporate established by the *Territory Insurance Office Act* (NT), the functions of which include provision of financial/lending services as approved by the responsible Minister.

TIO as part of its business operations acts as an insurer and a lender to domestic consumers. TIO's income is generated by its business operations and funding from the Northern Territory Government.

CEOH uses the Territory Insurance Office as its agent under a mortgage management agreement to assess all applications for credit on behalf of CEOH and to manage the loans made by CEOH under its various home loan schemes.

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

Chief Executive Officer (Housing)

GPO Box 4621 DARWIN NT 0801

RCG Centre, Mitchell Street DARWIN NT 0800

T: (08) 8999 8814

2. Notified arrangement

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

The proposed arrangement relates to a low deposit housing finance product that CEOH proposes to make available to consumers in the Northern Territory in conjunction with TIO.

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

CEOH, in conjunction with TIO, proposes to offer a housing loan to eligible borrowers in the Northern Territory which will allow them to borrow up to 97.5% of the value of a newly constructed dwelling, up to a maximum set by CEOH (currently \$550,000 for a three bedroom home). This housing loan ("the low deposit housing loan") is financed by TIO which will lend 80% of the value of the property and CEOH which will lend the remainder required (up to a maximum of 17.5% as the borrower is required to contribute at least 2.5% of the property's value). No mortgage insurance is required, resulting in a considerable saving to the borrower

If a potential borrower wishes to take advantage of the product and borrow up to 17.5% from the CEOH, the borrower must source the remaining 80% from TIO. Due to the higher level of risk to CEOH in its position as second mortgagee, care has been taken to set strict responsible loan assessment criteria and to formalise a priority arrangement between TIO and CEOH with restrictions on redraw facility under the first mortgage to TIO, apportionment of prepayments etc.

The product will be available through CEOH and TIO through mortgage brokers.

(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)

Consumers who wish to borrow up to 97.5% of the value of a newly constructed dwelling, and financial institutions which do not have current arrangements with CEOH regarding provision of a loan product on like terms.

- (b) Number of those persons:

- (i) At present time:

The exact number of potential borrowers is unknown at the present time but based upon level of interest generated by previous loan products, the number is thought to be in excess of 50 potential applicants, even before the loan product is available (intended to be 1 January 2013).

The loan product is limited to only new dwellings that commence construction after 1 January 2013 at a value of less than \$550 000 and is not available to purchasers other than owner occupiers.

The loan product will be offered for a maximum of two years.

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

It is anticipated that demand for this loan facility will be in the vicinity of a maximum of 150 loans over the next year.

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

The names and addresses of potential borrowers are not known as the product is yet to be released to the market. All will be residents of the Northern Territory who are looking to buy or construct a new home or unit to be occupied as their principal home, as these are some of the strict eligibility requirements which must be satisfied before borrowers are able to access the loan product.

4. Public benefit claims

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

The cost of housing in the Northern Territory has risen significantly in the past 10 years and is expected to continue to rise. Demand well exceeds supply.

The commencement of the long anticipated Inpex gas project has further stimulated the market with the result that sale prices in and around Darwin have risen considerably more than the national average over the past year.

Rents are among the highest in the country, taking a larger proportion of average weekly earnings making regular savings more difficult to achieve.

Tightened lending criteria with finance institutions has meant that supply has stalled as people are unable to afford to invest in new homes and developers are reluctant to take the risk of constructing homes which they may be unable to readily sell.

As a result, housing affordability is a major issue in the Northern Territory. Many Territorians have been unable to enter the local housing market due to their inability to provide the minimum deposit required by finance institutions with savings capacity constrained by the need to meet high private rental payments.

The product will only be approved for borrowers who have the financial capacity to meet required repayments..

This low deposit loan product will help in addressing this issue. The product is not currently offered by other finance institutions operating in the Northern Territory.

The product will have the added benefit of stimulating the building industry by encouraging more consumers to build new homes or purchase units off the plan, thus creating jobs in the construction industry in the Northern Territory.

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

CEOH through the Department of Housing which is the agency responsible for the administration of the *Housing Act* and the Department of Treasury and Finance undertake extensive industry research and monitor relevant market conditions as a component of their respective business operations, in the course of policy and budget setting.

The loan product is one component of a range of housing initiatives being supported by the NT government in an effort to stimulate housing supply and reduce stress on the private rental market.

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 likely to be affected by the product is the banking and finance market in the Northern Territory..

No other lender in the Northern Territory currently offers a 97.5% loan product for the purchase or construction of a new home, particularly without a requirement for mortgage insurance. Therefore, there is no substitute product available.

As the supplier of mortgage management services to the CEO Housing, TIO has existing systems in place to manage this product.

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 only foreseeable detriment is that at the present time at least, the low deposit loan product is available only through the combined lending of CEOH and TIO – borrowers who wish to take advantage of CEOH's 17.5% deposit loan cannot do so unless the balance loan funds are obtained through TIO. Borrowers will not be able to source funds through their own finance institutions if that institution is not TIO. Therefore, other benefits that may have been available to those borrowers through their own finance institutions cannot be obtained if the borrower wants to use CEOH's low deposit loan product.

Other finance institutions may lose business to TIO as a consequence of the conduct; however, it is highly unlikely that borrowers looking to access the low deposit loan facility would be eligible for a low equity loan product from a mainstream lender because of the tightened lending criteria imposed by those lenders and the added cost of mortgage insurance which would be a condition of loan approval.

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

It is always open to other finance institutions to approach CEOH with a view to negotiating arrangements whereby those other institutions can also participate as the 80% lender. CEOH would require that any other finance institution agrees to the strict assessment and loan management criteria and reporting regime imposed by CEOH.

It is thought that about 150 loan transactions under the low deposit loan product will occur during the next year with the loan product only on offer for a maximum period of two years. As the product is only available to those buying a new house (construction of which commences after 1 January 2013) or building a house and intending to occupy that house as their principal home for a mandatory three year period, there are limits on the extent of the market that will be affected.

7. Further information

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

Mychelle Curran

Deputy Chief Executive Officer

Department of Housing

2nd Floor RCG House

83-85 Smith Street

DARWIN NT 0800

p...(08) 8999 8821 f...(08) 8999 8499 .m... (08) 803 4166

Dated... 14/12/2012

Signed by/on behalf of the applicant

(Signature)

JOHN BASKERVILLE

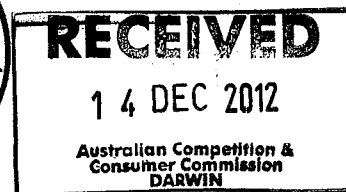
(Full Name)

CHIEF EXECUTIVE OFFICER (HOUSING)

(Organisation)

CHIEF EXECUTIVE OFFICER (HOUSING)

(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.