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19 December 2012



Australian Competition and Consumer Commission
Level 35, The Tower
360 Elizabeth Street
Melbourne VIC 3000

Dear Sir/Madam

Hancock Victorian Plantations Pty Limited - Notification under sub-section 93(1) of the *Competition and Consumer Act 2010 (Cth)*

Please find enclosed a notification of exclusive dealing under section 93(1) of the *Competition and Consumer Act (Cth)* lodged on behalf of our client Hancock Victorian Plantations Pty Limited (ACN 084 801 132).

Please do not hesitate to contact me if you have any questions.

Yours sincerely

Amanda Bodger
Partner
T +61 3 9643 4069
amanda.bodger@au.kwm.com

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)

N96490 Hancock Victorian Plantations Pty Limited (ACN 084 801 132) (“HVP”)

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

HVP is a plantation company that supplies logs for a range of uses including sawn timber, paper manufacturing, panel board and treated roundwood to local and international customers.

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

Amanda Bodger
King & Wood Mallesons
Level 50, Bourke Place
600 Bourke Street
Melbourne VIC 3000
Tel: 03 9643 4069

2 Notified arrangement

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

This notification relates to:

- export facilities services supplied in relation to the export of log at the Port of Portland, including access to on-port and off port log storage locations, access to shared land logistics and associated administrative services (“**Export Facilities Services**”); and
- export sales agent services supplied to forest owners including the sales and marketing of export logs from the Port of Portland to overseas customers, chartering ships to transport such logs to overseas markets and providing oversight of land logistic services at the Port of Portland on behalf of forest owners (“**Export Sales Agent Services**”).

- (b) Description of the conduct or proposed conduct:
(Refer to direction 4)

HVP proposes to enter into an arrangement with Green Triangle Forest Products (PTC) Limited (ARBN 087 010 446) (a company registered in the British Virgin Islands) in its capacity as trustee for the World Timberfund Australia Trust (“GTFP”) pursuant to which HVP will:

- supply or offer to supply Export Facilities Services to GTFP on condition that GTFP agrees to acquire Export Sales Agent Services from TPT Australia Limited (ACN 150 142 025) (“TPTA”); and
- refuse to supply Export Facilities Services for the reasons that GTFP has not acquired or has not agreed to acquire or ceases to acquire Export Sales Agent Services from TPTA.

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)

The persons likely to be affected by the notified conduct are GTFP, TPTA, businesses which supply services that are equivalent to the Export Facilities Services or the Export Sales Agent Services.

- (b) Number of those persons:

- (i) At present time:

Unknown

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

Unknown

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

Green Triangle Forest Products (PTC) Limited (ARBN 087 010 446) (a company registered in the British Virgin Islands) in its capacity as trustee for the World Timberfund Australia Trust, as follows:

PO Box 330, Millicent Road
Mount Gambier, South Australia 5290
Australia

TPT Australia Limited (ACN 150 142 025) as follows:

Level 34
32 Turbot Street
Brisbane 4000

4 Public benefit claims

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

The proposed conduct will be of benefit to the public as it will:

- allow HVP and GTFP to have access to the export market for logs, which would otherwise be uneconomical without the proposed notified conduct, as neither party on their own has sufficient estimated export volumes to fill vessels with sufficient certainty on a regular basis;
- result in the upgrade of log export facilities at the Port of Portland, which would otherwise be uneconomical without the proposed notified conduct; and
- help ensure the effective and efficient operation of export facilities for logs at the Port of Portland through the co-ordination of land logistic services and scheduling of vessels; and
- prevent a wasteful use of resources as it is not economical for each party to separately use a different export agent at the Port of Portland.

The applicant believes that the benefits from the proposed conduct outlined above will outweigh any possible detriment considered to arise from the conduct.

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

The effective operation of the log marshalling yard at the Port of Portland and provision of Export Facilities Services depends on the maintenance of a common shipping schedule for each of the exporters whose logs will be marshalled in that yard. In practice, this means that a single export agent will be required to be engaged by both exporters in order that both exporters' logs will be able to be loaded on ships chartered by that agent.

Given the expected vessel volumes and estimated export volumes of the parties, shipments will likely require volume of product from both parties. Accordingly, it is only practical if HVP offers the Export Facilities Services to GTFP on condition that they use a common export agent. The added costs and logistical difficulties that would arise from seeking to service two separate export agents operating to two separate shipping schedules would render the undertaking impracticable and uneconomic.

The estimated volume of export logs that GTFP can individually put to the export market is insufficient to justify the establishment of a separate marshalling yard and export agent. Accordingly, combining volumes through the Export Facilities Services and appointment of TPTA as export agent allows GTFP access to a market that they would otherwise find difficult or uneconomic.

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)

There are a number of markets that may be relevant, including markets for:

- The supply of log export facilities services in South-West Victoria.

Only logs sourced from plantations within economic transport distance from the Port of Portland would be viable through the proposed log export facility. There is currently one log export facility operating at the Port of Portland. The proposed arrangement will support a large capital investment at the Port to establish a second such export facility. In addition, it is likely that a third such facility may shortly be established at Portland.

- The supply of export sales agent services to log exporters.

There are a number of export sales agents operating in Australasia, each with a unique business model. Typically a forest grower will seek to align with a single export agent for a contract term to enable the agent sufficient time and security to build customer demand for the forest owner's 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)*

HVP does not believe that there will be any public detriment, or any substantial lessening of competition or impact on price for the relevant goods and services arising from the proposed conduct.

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

The proposed conduct will not lessen competition in any markets for the relevant products and services as:

The arrangement does not materially damage other export facilities or access to export facilities in Portland as:

- there is a third export facility proposed to be established adjacent to the export facility that is the subject of this notification; and
- the lease with the Port of Portland requires the lessee (HVP) to allow other parties access to the export facilities on reasonable commercial terms, so as not to preclude access to the port by other forest owners.

It is common practice in Australasia for forest growers to consolidate export arrangements in order to be able to provide a reliable supply chain and shipping schedule for export customers.

The benefits from the conduct will outweigh any possible detriment considered to arise from the proposed notified conduct.

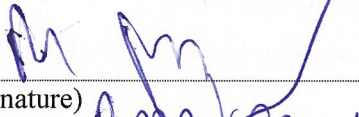
7 Further information

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

Amanda Bodger
King & Wood Mallesons
Level 50, Bourke Place
600 Bourke Street
Melbourne VIC 3000
Tel: 03 9643 4069

Dated 20-12-12

Signed by/on behalf of the applicant


(Signature) AMANDA KAM BODGER

(Full Name) KING & WOOD MALLESONS

(Organisation) PARTNER

(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.