

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

ACCC

04 JAN 2012

PERTH

1. Applicant

- (a) Name of person giving notice:
(Refer to direction 2)

N95668 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

DOC ID:

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.

- (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.

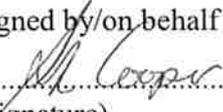
7. Further information

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

Skye Cooper
Level 6, Wesfarmers House
40 The Esplanade
Perth WA 6000
(08) 9482 7561

Dated...3/1/2012.....

Signed by/on behalf of the applicant


.....
(Signature)

SKYE COOPER
(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. Broome is a regional town which is located approximately 2,400 kilometres north of Perth and features a permanent resident population of approximately 14,500 people. Broome is regarded as a national and international tourist destination and some major industries within Broome include tourism, pearling, mining and agriculture.
4. LandCorp is developing a residential estate in Broome known as the Broome North Estate and which is being developed in stages. LandCorp has commenced development of, and has commenced releasing lots for sale within, Stages 5 - 10 of this Estate.
5. LandCorp is committed to keeping the entry-level base price of land, and where possible housing in the Broome North Estate, as low and affordable as possible to encourage first home buyers and families to settle permanently in the region.
6. LandCorp has identified 50 single residential lots in Stages 5 - 10 out of the 230 single residential lots 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 50 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 10 lots per builder) on these 50 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 and are priced to attract first home buyers.
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 Broome or in the vicinity of the Broome North Estate in that only 50 lots will be sold as house and land packages. The remaining 180 single residential lots in Stages –5 - 10 will be, or have been, offered for sale by LandCorp as follows:

- (a) 2 lots to the Department of Housing;
- (b) 3 lots to the Government Regional Officers Housing;
- (c) 6 lots to private builders as display lots;
- (d) 33 lots to National Rental Affordability Scheme/Community housing;
and
- (e) 136 lots to the public.

Total: 180

In addition, Stages 5 – 10 comprise 53 multiple unit dwelling sites which will be, or have been, offered for sale by LandCorp as follows:

- (a) 11 to Department of Housing;
- (b) 4 to Government Regional Officers Housing;
- (c) 13 to National Rental Affordability Scheme/Community Housing; and
- (d) 25 to the public.

Total: 53

Accordingly, the total number of lots to be made available to the public not the subject of house and land packages will be 161.

11. Questus Limited (“**Questus**”) is facilitating the distribution of the 33 single residential lots and 13 multiple unit dwelling sites allocated to National Rental Affordability Scheme/Community Housing (“**Questus Lots**”) set out in Item 10 above. Whilst LandCorp has no involvement with Questus or the National Rental Affordability Scheme/Community Housing, LandCorp has recommended that Questus obtain its own independent advice as to whether it should submit a separate notification of exclusive dealing (Form G) application to the Australian Competition and Consumer Commission in respect of the Questus Lots. LandCorp understands that Questus propose to appoint a panel of builders to develop the Questus Lots in accordance with LandCorp’s requirements and that it will be a condition of the building contract with the respective builders appointed by Questus that each prospective purchaser of the Questus Lots enters into a contract of sale for the lots with LandCorp. Please note, it will not be a condition of sale of these lots by LandCorp that the prospective purchaser enters into such a building contract. As at the date of this notification, LandCorp is not aware of the specific terms of this arrangement. However, LandCorp will not enter into sale of these lots under these arrangements unless either Questus has obtained an

exemption for this arrangement from the Australian Competition and Consumer Commission or LandCorp obtains such exemption.

12. In addition to the 161 lots available for sale by LandCorp to the public in the Broome North Estate not the subject of the proposed sale of house and land package lots or other arrangements as set out in Item 10 above, there are also other lots available for purchase in Broome. Based upon information on the www.realestate.com.au web site, there is currently approximately 63 lots available for purchase by other developers and sellers which are not the subject of "house and land packages". These lots are located within Roebuck Estate, Sunset Park, Old Broome and Cable Beach.
13. LandCorp also has a further 21 lots available for sale to the public in its Januburu Six Season Estate in Broome.
14. LandCorp has worked with a number of builders in Broome and will choose the Panel Builders for their product quality and form, ability to construct in a timely manner and price competitiveness.
15. LandCorp has released 37 of the 161 'public release' lots mentioned in Item 10 above to the public and proposes to release the remaining 124 'public release' lots as demand dictates. In addition, subject to legal immunity being conferred in relation to this notification by the Australian Competition and Consumer Commission, LandCorp proposes that the 50 'house and land package' lots the subject of this notification will be released in approximately March 2012.
16. 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.