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The Manager
Adjudication Division
Australian Competition and Consumer Division
GPO Box 3131
Canberra ACT 2601

Dear Sir/Madam

Notification of Exclusive Dealing: S47(6)

Questus Funds Management Limited (QFML) have been asked by WA Government land developer, Landcorp, to lodge a notification of exclusive dealing in respect to building lots that are being allocated to QFML for the provision of housing under the National Rental Affordability Scheme.

We are advised they have successfully made a notification in respect to their dealings with us and they require us to do the same in respect to our subsequent dealings with those parcels of land.

Accordingly, we submit the requisite Form G, supporting documentation and the application fee of \$100.00.

Please do not hesitate to contact me on [REDACTED] or [REDACTED] if you require any further information or explanation.

Yours sincerely



Alannah MacTiernan
Business Development Manager
North West
Questus Ltd

**EXCLUDED FROM
PUBLIC REGISTER**

22 March 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:

N95785 Questus Funds Management Limited

- (b) Short description of business carried on by that person:

Developing house-land packages with access to the National Rental Affordability Scheme in the North West of Western Australia for sale to investors

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

884 Canning Highway Applecross Western Australia 6153

2. Notified arrangement

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

House-land packages with NRAS entitlements in the North West of Western Australia. The land affected includes up to 46 lots in the Broome North – Waranyjarri Estate, up to 5 lots in Karratha – Baynton West and up to 5 lots in East Newman – Stage 3a and 9 lots in the South Hedland New Living Project. **Refer also to Appendix**

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

Selling housing lots to investors as part of a package which stipulates a nominated housing design and builder. **Refer also to Appendix**

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:

Investors in rental accommodation in the North West of Western Australia.

- (b) Number of those persons:
- (i) At present time:
4
- (ii) Estimated within the next year:
(Refer to direction 6)
Up to 100.
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

W Collinson, [REDACTED]

S McDonald, [REDACTED]

IBN Corporation ATF The IBN Charitable Trust, 3 Brand Street, South Hedland, WA, 6722

A Claxton, [REDACTED]

4. Public benefit claims

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

The delivery of NRAS dwellings into the North West of WA will provide much needed affordable accommodation to service workers in the regions.

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

Extreme shortage of accommodation in the North West region.

Rental cost of dwellings in the region at extraordinarily high rates.

The decision by Federal and State Government to prioritise NRAS entitlements for the North West.

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)

Description of the Market

- See Appended Document

Affected Market

- There is unlikely to be any existing market affected, as delivery of affordable housing is not being delivered in the regions without the NRAS initiatives provided.

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:

Nil

(b) Facts and evidence relevant to these detriments:

Nil

7. Further information

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

Hon Alannah MacTiernan

[Redacted address and contact details]

EXCLUDED FROM PUBLIC REGISTER



Dated.....19 March 2012.....

Signed by/on behalf of the applicant

Alannah MacTiernan

(Signature)

Alannah MacTiernan

(Full Name)

Questus Funds Management Limited
(Organisation)
Executive Manager – North West
(Position in Organisation)

APPENDIX TO ITEM 5

Questus Funds Management Limited (QFML) is a wholly-owned subsidiary of Questus Ltd (Questus) which is an ASX listed, developer of financial products and a fund manager.

QFML has been allocated 920 entitlements for the North-West of Western Australia under the National Rental Affordability Scheme (the Scheme). QFML is the designated “responsible entity” for these entitlements and as such must account for the compliance with the Scheme for the ten year life of each entitlement.

The Scheme, jointly funded by the Federal and State Governments, aims at increasing the supply of affordable rental accommodation by providing annual subsidies to investors who participate in the Scheme. Properties under the Scheme are rented at below market rents to tenants who meet specified income levels.

There are particular challenges in making the Scheme work in the North-West of Western Australia because of the high rents, high property prices and lack of availability of land. In order to help address this, WA Government agencies, including Landcorp and the Department of Housing, are making some housing lots available at market price to Questus to on-sell to investors who are willing to provide rental accommodation under the Scheme.

QFML does not take ownership of the land, but puts together a house-land package which are combined with NRAS entitlements and sold to an investor. The investors are required to commit the properties, when built, to the Scheme for a minimum of five years.

In order to keep prices within a range that enable the Scheme to be financially viable and to deliver the housing in a timely way, Questus allocates parcels of these lots to specific builders. These are builders who have an established history of building in the region and who can deliver at a price which is viable for the Scheme. Generally a builder will be

allocated a parcel of 5 lots in a sub-division – which is the minimum required for the efficient mobilisation of trades in these remote areas.

To have a product to sell an investor, Questus must be able to offer a house-land package with approved design and fixed prices. This is not possible to do without having committed the site to a particular builder. In many instances, Questus uses a “dual key” model of housing which requires that development approval is obtained from the local authority prior to putting the house-land package on the market. This simply would not be practical without having engaged a builder who provides the appropriate drawing for the specific site.

The investor first signs an expression of interest document in which a particular parcel of land and the particular housing design and builder assigned for that land is nominated. The investor then makes an application under the Product Disclosure Statement to acquire an interest in the Questus Residential Investment Fund, which then gives them the right to an NRAS entitlement. A proforma copy of each of these documents is attached.

The investor then contemporaneously executes the contract for purchase of land and the building contract. Neither contract specifically references the other.

It is anticipated that about 30% of the 920 Scheme allocations will be delivered in this way.

Where a land owner, be it private developer or native title entity, wishes to participate in the Scheme by developing on property they source themselves, Questus does not require any particular builder to be utilised.

Questus offers the Scheme through its Product Disclosure Statement and is supported through an ATO ruling.