

ACCC
2 SEP 2013
PERTH

The Quadrant
1 William Street, Perth
Western Australia 6000
GPO Box F338, Perth
Western Australia 6841
Tel +61 8 9288 6000
Fax +61 8 9288 6001
www.lavanlegal.com.au

Our ref: JGL:IRF:1143782
Contact: Joseph Leith
Direct Line: (08) 9288 6792
E.mail: joseph.leith@lavanlegal.com.au
Partner: Iain Freeman
Direct Line: (08) 9288 6759
E.mail: iain.freeman@lavanlegal.com.au

LAVAN LEGAL
Leaders in Law

29 August 2013

Chief Executive Officer
Australian Competition and Consumer Commission
3rd floor, East Point Plaza
233 Adelaide Terrace
Perth WA 6000

Dear Sir or Madam

Notification of Exclusive Dealing

I write on behalf of our client, the Western Australian Land Authority trading as Landcorp (**Landcorp**).

- 1 I enclose the following documents:
 - 1.1 Form G Notification of Exclusive Dealing, signed by Helen Todd on behalf of Landcorp; and
 - 1.2 a cheque for \$100.00 in respect of the filing fee.
- 2 I understand that the commencement of immunity for the exclusive dealing will be calculated 14 days from today (13 September 2013).
- 3 If you have any queries in relation to this letter, or the notification, please do not hesitate to contact me.

Yours sincerely


Iain Freeman
Partner

Encl

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:

N96941

Western Australian Land Authority trading as LandCorp (**LandCorp**).

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

LandCorp is established pursuant to the *Western Australian Land Authority Act 1992* (WA) and aims to provide, or promote the provision of, land, infrastructure, facilities and services for the social, economic and environmental needs of the State and for related purposes.

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

Level 6

Wesfarmers House

40 The Esplanade

PERTH WA 6000

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 the sale of house and land packages and the sale of strata developments in a range of localities across the State of Western Australia which are consistent with the objects of LandCorp described in paragraph 1(b).

(b) Description of the conduct or proposed conduct: LandCorp owns the underlying land of many contemplated residential estates and strata developments (**Estates**) located across Western Australia in regional towns and the metropolitan area, which are in varying stages of completion and which are developed in stages.

Residential Estates

From time to time, LandCorp wishes to offer to one or more builders (**Builders**) the opportunity to market the sale of the lots comprising of the residential estate owned by LandCorp with a view to constructing a house on that lot as a house and land package (**House and Land Package**).

LandCorp wishes to sell the House and Land Package to the purchaser on the condition that the purchaser enters into a building contract with one of the Builders.

Strata Developments

From time to time, LandCorp wishes to offer to Builders the opportunity to market the sale of strata properties within the strata development.

LandCorp wishes to sell the strata properties to the purchaser on the condition that the purchaser enters into a building contract with one of the Builders.

This proposed conduct may bring the arrangement between LandCorp and the Builders for residential estates and strata developments within section 47(6) of the *Competition and Consumer Act 2010* (Cth).

LandCorp wishes to be able to engage in the proposed conduct across both its current and future residential estates and strata developments.

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:

The persons affected by the notified conduct is limited to the (potential) purchasers and Builders of House and Land Package lots and strata properties within LandCorp's residential estates and strata development sites.

- (b) Number of those persons:

- (i) At present time:

Not known

- (ii) Estimated within the next year:

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)

A number of public benefits arise from the notified conduct, including:

- The proposed conduct will encourage Builders to build residences of a high standard which meets LandCorp's requirements to maximise the use of the land and the amenities on the land while remaining competitively priced.
- The proposed conduct will increase the residential land supply in Western Australia.
- The proposed conduct will increase the availability of reasonably priced properties to purchasers consistent with the objects of LandCorp.

The public benefits outweigh any anti-competitive detriments arising from the conduct.

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

The proposed conduct will not have the effect of substantially lessening competition in the market for residential land and/or building services in the State of Western Australia given that LandCorp will canvass various websites to ensure that there is currently other vacant lots available for sale in nearby Estates (including our own) which would not appear to be subject to a House and Land Package restriction.

LandCorp provides approximately 3% of the Perth metropolitan residential market and will not allocate more than 60% of any of the lots in its Estates to House and Land Packages.

LandCorp will not receive any fee, commission or other financial reward in relation to the building contract to be entered into between the Builders and purchasers of the House and Land Package lots or the strata development such that it would detrimentally effect the price.

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 market in which the proposed conduct relates is the residential real estate market in Western Australia. The acquirers of this land include private persons, businesses and Government agencies.

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)

There are no known public detriments arising from the notified conduct.

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

LandCorp provides approximately 3% of the Perth metropolitan residential market and will not allocate more than 60% of any of the lots in its Estates to House and Land Packages.

LandCorp will not receive any fee, commission or other financial reward in relation to the building contract to be entered into between the Builders and purchasers of the House and Land Package lots or the strata development such that it would detrimentally effect the price.


7. Further information

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

Helen Todd
Level 6 Wesfarmers House
40 The Esplanade
PERTH WA 6000
(08) 9482 7544

Dated... 28 August 2013

Signed by/on behalf of the applicant



(Signature)
HELEN JOAN TODD
LandCorp
Builder Liaison Manager

ACCC
2 SEP 2013
PERTH

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.