

FILE No:
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MARS/PRISM:

1<sup>st</sup> October 2013

David Hatfield  
Adjudication  
GPO Box 3131  
Canberra ACT 2601

Dear David

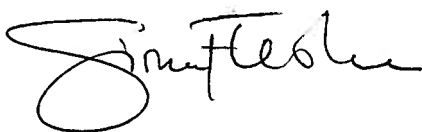
**Third line forcing notification N96965**

I refer to the above third line forcing notification lodged with the ACCC. I now wish to advise that Yunderup Holdings Pty Ltd seek to lodge notification using the same Form G as Bowman Waters Holdings Pty Ltd. Please find enclosed the additional fee of \$100 on behalf of Yunderup Holdings.

Can you please proceed to have this request processed and the notification published on the public register.

Should you need to discuss this any further please contact me directly (08) 9368 9055.

Kind Regards



Simon Flesher  
Sales Operations Manager



**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)*

N97017

~~Bowman Waters Holdings Pty Ltd (ACN 115 613 057 as trustee for the  
 Bowman Waters Trust and Yunderup Holdings Pty Ltd ACN 119 013 786.~~

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

Acquisition, development and sale of land.

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

18 Bowman Street  
 South Perth WA 6151 (PO Box 410 South Perth WA 6951)

**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) 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:

Simon Flesher  
Sales Operations Manager  
Satterley Property Group Pty Ltd  
18 Bowman Street  
South Perth WA 6151

Phone: 9368 9055  
Mobile: 0477 000 115  
Fax: 9368 9002

Dated

Signed by/on behalf of the applicant

**ACCC**

9 SEP 2013

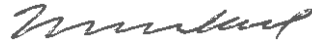
**PERTH**

**Bowman Waters Holdings Pty Ltd**



.....  
(Signature) Director

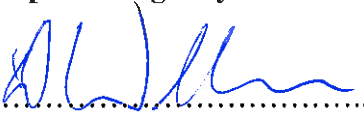
...**David Conrad Williams**  
(Full Name)



.....  
(Signature) ~~Director~~/Secretary

...**Rossmore James Carmichael**..  
(Full Name)

**Yunderup Holdings Pty Ltd**



.....  
(Signature) Director  
**David Conrad Williams**

.....  
(Full Name)



.....  
(Signature) ~~Director~~/Secretary

...**Rossmore James Carmichael**..  
(Full Name)

.....  
(Full Name)

## 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.

## ANNEXURE A

1. Bowman Waters Holdings Pty Ltd and Yunderup Holdings Pty Ltd are developing a residential estate known as “Austin Lakes Estate” which is situated in South Yunderup, a township approximately 15.6 km from Mandurah, 10 km from the town of Pinjarra and approximately 80 km from Perth. South Yunderup is located on the south bank of the Murray River and the Austin Lakes estate is a master planned community being developed in Stages.
2. Satterley Property Group Pty Ltd (Satterley) has been appointed by the Land Owner as the project and sales manager of the Estate.
3. Satterley has identified 3 residential lots (House and Land Package Lots) out of 16 lots in Stage 2.61 of the Estate which it proposes to offer to selected builders (Builders) to market on the basis that the Builder will construct a residence for a buyer on the House and Land Package Lots.
4. It is proposed that the Builder will be able to market (in conjunction with Satterley “house and land packages” on the House and Land Package Lots. It will be a condition of the sale of the House and Land Package Lots that buyers enter into a building contract with one of the Builders. Prime facie, this proposal may amount to third line forcing under the provisions of the *Competition and Consumer Act 2010 (Cth)*.
5. It is proposed that the Land Owner will enter into a put option with the Builders whereby any House and Land Package Lot not sold to a buyer as mentioned in Item 5 above within a specified timeframe will be required to be purchased from the land owner by the Builder.
6. The House and Land Package Lots will be provided to the Builders at an affordable price range with the balance of the land being sold at market price. The house and land package market in South Yunderup area is very robust. There are numerous land developers providing a variety of land products, as well as Builders providing dwellings suitable for the first home buyer through to the upper market sector.
7. 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 Builder to build a residence of a high standard and which will meet the Land Owner’s requirements and which are intended to be competitively priced.
8. 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 South Yunderup or in the vicinity of the Estate given that there are at some 31 residential lots currently available within previous stages which will be sold without restriction. Buyers who do not wish to be limited in their choice of builder have the opportunity to purchase another lot (without restriction) within the Honeywood Estate or estates in nearby suburbs.
9. Satterley expects that prospective buyer will receive a competitively priced building price for the proposed residence to be constructed on the House and Land Package Lot due to the strong competition from the new home building market. The proposal provides for the most affordable house option predominately targeted to the first home buyer, which is beneficial to the community.

10. Satterley and the Land Owner will not receive any fee, commission or other financial reward in relation to the building contract to be entered into between the Builders and buyers of the House and Land Package Lot.