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AUST COMPETITION & CONSUMER
COMMISSION - ADELAIDE

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)

N99051 **City of Salisbury of PO Box 8, Salisbury SA 5108**

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

City of Salisbury acting as a residential property developer is delivering a one hundred and twenty two (122) allotment residential project at Paralowie, with the trading name Boardwalk at Greentree.

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

**C/- Ms Annoushka Scharnberg
Finlaysons Lawyers
Level 7, 81 Flinders Street
Adelaide SA 5000**

2. Notified arrangement

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

The proposed arrangement relates to the sale of thirty (30) allotments within the project described above as Boardwalk at Greentree – specifically allotments 20-49 (inclusive) on the plan annexed hereto as Annexure A.

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

City of Salisbury (as vendor) will only agree to sell a proposed allotment to a potential purchaser on the condition that the purchaser enters into a certain building contract with Rivergum Homes Pty Ltd ACN 065 466 337 (*Rivergum*) as the builder whereby Rivergum will undertake the construction of a residential dwelling on the allotment in accordance with the building contract and the plans, drawings and specifications attached to it.

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)

Purchasers who enter a Land Sale Contract with City of Salisbury for the purchase of a proposed allotment delineated on the Proposed Plan of Division contained in Annexure A.

- (b) Number of those persons:

- (i) At present time:

Unknown

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

Approximately thirty (30) purchasers (but such purchasers could be one or more individuals) of the proposed thirty (30) allotments will be affected by the notified conduct within the next year, as the allotments have a target settlement date from mid-August 2016.

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

The identities of the potential purchasers are currently unknown.

4. Public benefit claims

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

City of Salisbury respectfully considers that the wider community will benefit by having a fully integrated house and land option that ensures;

- 1. Built form cost efficiencies;**
- 2. Affordability;**
- 3. High Quality Design and Build.**

The residential dwellings constructed in accordance with plans, drawings and specifications that ensure that those dwelling are desirable, well-designed and complimentary to the desired character of the development zone within which it is situated, and which will ensure all thirty (30) dwellings will be built within a reasonable time of each other to ensure a consistency of appearance for the development and allotments owners generally.

Further, there are numerous builders available in South Australia who specialise in the construction of residential dwellings. City of Salisbury respectfully considers that the market for the construction of residential dwelling is competitive and the proposed arrangement facilitates the construction of a desirable residential development as a whole which will benefit the wider community through providing a highly presentable and unique development which will also assist purchasers in maintaining a value for their dwelling due to a consistency of appearance and building style.

The aim of this arrangement is to ensure that there is a housing option available for the Salisbury Community who would not otherwise be able to afford to live within this location and where no other existing or new housing products can meet this price point. These housing solutions would start from approximately \$220,000.00 significantly below the threshold currently set for affordable housing products.

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

The plans, drawings and specifications of the residential dwellings to be constructed evidence the public benefit claims outlined above. However these documents contain commercially sensitive information and cannot be published on the public register.

<http://www.realestate.com.au/buy/property-land-in-sa/list-1>

Please see above link to Australia's leading property website, realestate.com.au detailing in excess of 5,916 vacant land blocks available for sale in South Australia as at 1 April 2016

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 relevant markets to be affected by the proposed conduct are the markets for the development, construction and purchase of new residential dwellings in the South Australia.

City of Salisbury respectfully considers that potential purchasers of developed or undeveloped residential land have a wide choice of properties to purchase within the City of Salisbury and South Australia generally, and the restriction of the use of builder for the construction of residential dwellings on only thirty (30) allotments does not limit that choice.

City of Salisbury respectfully considers that the competitors of Rivergum in the residential dwelling construction industry will suffer no detriment as a result of the restriction requiring purchasers to engage the relevant building contractor for the construction of the thirty (30) residential dwellings at 36-72 Wapole Road, Paralowie SA 5108 South Australia on City of Salisbury's land.

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)

City of Salisbury respectfully considers that limited or no public detriment will result from the proposed conduct as potential purchasers of the undeveloped land have an abundance of alternative developers and vendors to purchase undeveloped land from and an abundance of building contractors to engage to undertake works on those alternate land parcels.

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

<http://www.realestate.com.au/buy/property-land-in-sa/list-1>

Please see above link to Australia's leading property website, realestate.com.au detailing in excess of 5,916 vacant land blocks available for sale in South Australia as at 1 April 2016

7. Further information

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

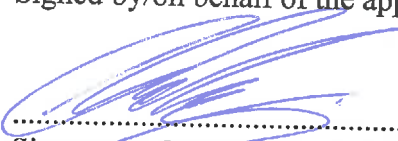
Ms Annoushka Scharnberg, Finlaysons Lawyers, solicitor for City of Salisbury

Finlaysons Lawyers of Level 7, 81 Flinders Street, Adelaide SA 5000

**Phone 08 8235 7404 Fax 08 8235 2944 Email
annoushka.scharnberg@finlaysons.com.au**

Dated: 11th of April 2016

Signed by/on behalf of the applicant:



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Signature of Annoushka Scharnberg, Finlaysons Lawyers
Solicitor for City of Salisbury
Finlaysons Lawyers of Level 7, 81 Flinders Street, Adelaide SA 5000



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.