

<b>Allens</b>	
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17 September 2018

Mr Lewis Tomcsanyi  
30 Target Road  
Yakamia WA 6330

**By post and by email: ltomcsanyi@hotmail.com**

Dear Mr Tomcsanyi

**Your emails to Andrew Thorburn of 14 September 2018**

We refer to your emails to Andrew Thorburn, CEO of National Australia Bank (**NAB**) sent 14 September 2018 and the attachments (**Emails**). We also refer to our previous correspondence, in particular your emails of 4 June 2018, 6 July 2018, 5 September 2018 and 10 September 2018 and our letters dated 5 June 2018, 11 July 2018 and 10 September 2018.

We have been instructed by NAB (and the office of its CEO, Mr Thorburn) to respond as follows:

1. The matters raised in your Emails have been raised by you in your earlier correspondence with NAB.
2. In particular, NAB specifically responded to the document entitled 'NAB's Mortgage Fraud' by letter dated 10 September 2018, a copy of which is attached for your reference. In that letter, we set out the reasons why NAB disagrees with the matters you raised, and that NAB denies any fraud you have alleged by NAB or its officers in relation to the mortgage or otherwise.
3. We have also now considered the more detailed assertions raised in the video recording (**Video**) sent to NAB. Again, NAB respectfully does not agree that those assertions (as we understand them) are legally or factually correct.
4. To reiterate the reasons explained in our letters of 5 June 2018, 11 July 2018, and 10 September 2018, and respond to the further matters asserted in the Video:
  - (a) in relation to allegations that NAB 'separated your mortgages from the security', NAB has confirmed that:
    - (i) your original loan was not on-sold as part of a bundle of securities; and
    - (ii) neither your loans nor mortgage have been securitised.
  - (b) the mortgage form used in respect of the property at 60 Woylie Road, Kordabup was in an approved form as at 23 February 2009, when the mortgage was executed, and accordingly was accepted and registered as a valid mortgage by Landgate.
  - (c) the Video alleges that the overdraft account and the Market Rate Facility were unsecured by reference to the letter of offer dated 21 February 2009 at pages 4 and 5 providing that the 'Facility Specific Security' was not applicable. We refer you to page 5 of the letter of offer which identifies the securities that secured 'all new facilities detailed within this agreement', including the overdraft facility and the Market Rate Facility.
  - (d) The word 'nil' in the 'Limitations, Interests, Encumbrances and Notifications' panel on the face of the mortgage form indicates that there were no other limitations, interests,

**Our Ref** PZBP  
**name.**

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encumbrances and notifications that were already recorded on the certificate of title (see Note 3), when NAB's mortgage was taken. It does not indicate that NAB held no mortgage or security. Rather, that NAB's mortgage was a first ranking mortgage and unaffected by any other encumbrance on title. This is not related to assignment or securitisation of loans or the mortgage.

(e) The empty box on the second page of the mortgage does not mean that there are no applicable terms and conditions incorporated by the mortgage. The mortgage instrument itself expressly incorporates the terms and conditions contained in Memorandum of Provisions No K391377. Para 1.1 of the mortgage instrument expressly states this.

5. Respectfully, we do not agree that the form of the mortgage was defective or legally invalid as alleged, nor that any such defect would (if correct in any event) constitute a fraud by NAB or its officers. In this regard, you mentioned during your telephone conversation with the writer on Tuesday, 11 September that you had obtained or would be obtaining legal advice on this issue. We would encourage you to do so, and would be happy to speak with your lawyers about it if they wish to.

#### **Possession of property and your proposed resolution**

6. As you know, the Bailiff enforced the Property Seizure and Delivery Order on 12 September 2018. Accordingly, NAB now has lawful possession of the property at 60 Woylie Road pursuant to the Court orders, and will take the normal steps to secure the property and commence the mortgagee sale process.

7. However, as indicated to you by telephone on 12 September 2018 (and in previous communications), despite being in possession, NAB remains willing to consider any reasonable offer made by you in good faith and remains open to discussing any realistic commercial resolution that you wish to propose. Again, NAB encourages you to put forward any such proposal by contacting Allens. We would urge you to do so as soon as possible, noting the mortgagee sales process will be progressed in the meantime.

8. NAB reserves all its rights, including its rights under the orders of the Western Australian Court of Appeal dated 27 July 2017 and the Property Seizure and Delivery Order.

9. Please direct all future correspondence to us.

Yours sincerely



**Philip Blaxill**  
Partner  
Allens  
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10 September 2018

Mr Lewis Tomcsanyi  
30 Target Road  
Yakamia WA 6330

**By post and by email: ltomcsanyi@hotmail.com**

Dear Mr Tomcsanyi

**Your emails to Andrew Thorburn of 5 September 2018 and 10 September 2018**

We refer to your emails to Andrew Thorburn, CEO of National Australia Bank (**NAB**) sent 5 September 2018 and 10 September 2018 and the attachments (**Emails**). We also refer to our previous correspondence, in particular your emails of 6 July 2018 and 4 June 2018 and our letters dated 11 July 2018 and 5 June 2018.

We have been instructed by NAB (and the office of its CEO, Mr Thorburn) to respond as follows:

1. The matters raised in your Emails have already been raised by you in your earlier correspondence with NAB.
2. NAB has considered the matters you have raised, and for the reasons explained in our letters of 11 July 2018 and 5 June 2018, considers that these allegations are factually and legally incorrect. In particular, NAB has confirmed that:
  - (a) your original loan was not on-sold as part of a bundle securities;
  - (b) neither your loans nor mortgage have been securitised; and
  - (c) the mortgage form used in respect of the property at 60 Woylie Road, Kordabup was in an approved form as at 23 February 2009, when the mortgage was executed and was accepted and registered as a valid mortgage by Landgate.
3. On that basis, NAB denies any fraud by NAB (or any officer of NAB) that you have alleged.
4. Given the long history of the court proceedings commenced by you and period of time that the Court orders requiring you to deliver up possession have been outstanding, NAB intends to allow the Sheriff to continue with the scheduled enforcement of the Property Seizure and Delivery Order.
5. In relation to the potential solution referred to in your Emails, we confirm that NAB will consider any offer made by you in good faith and as we have previously indicated, remains open to discussing any realistic commercial proposal that you wish to make. NAB encourages you to put forward any such proposal (which you should make in writing to Allens), at any time, whether before or after enforcement of the Property Seizure and Delivery Order.
6. NAB reserves all its rights, including its rights under the orders of the Western Australian Court of Appeal dated 27 July 2017 and the Property Seizure and Delivery Order.

**Our Ref** PZBP:120151758

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7. Please direct all future correspondence to us.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Blaxill', written in a cursive style.

**Philip Blaxill**  
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