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New Research Study - Trans Tasman Mutual Recognition Act (TTMRA)

1.0 This submission is prepared on behalf of the Valuers Registration Board of New Zealand operating under the Valuers Act 1948.

1.1 The submitter on behalf of the Board is Evan Gamby, Deputy Chairman, appointed by the Minister in Charge of Valuation. The Valuers Registration Board of New Zealand is responsible for the registration of all valuers of real property (land and buildings) in New Zealand. Broadly comparable Registration Boards in Australia are:

+ The Queensland Registration Board
+ The Registration Board of New South Wales
+ The Real Estate Licensing Authority of Western Australia

1.2 There is no Valuers Registration system in:

+ Australian Capital Territory (ACT)
+ Victoria
+ Northern Territory of Australia
+ Tasmania

1.3 South Australia has a system of negative licensing that enables a person to perform valuations until a disciplinary procedure directs that the valuer cannot practice.

1.4 TTMRA therefore applies only in respect of Queensland, New South Wales, Western Australia and New Zealand.

2.0 TTMRA - 1997

2.1 The New Zealand Valuers Registration Board has in place a detailed procedure for the administration of applications in accordance with TTMRA. There is an internal manual for Board members and the Registrar, and guidelines for applicants. This system has been in place for the past 5 years.

2.2 The Registrar of the Valuers Registration Board of New Zealand is in contact, as and when required, with the Registrar equivalents of Queensland, New South Wales and Western Australia. There is no equivalency of registration at all levels in New South Wales.

2.3 There is no registration system for ACT, Victoria, Northern Territory and Tasmania. Any application from a non-registered valuer domiciled in these states would be declined registration.

2.4 There is no equivalency of registration for South Australia. Any application would be declined.

2.5 To the extent that equivalent registration exists in Queensland, New South Wales and Western Australia, the Valuers Registration Board of New Zealand has supported TTMRA. To the extent that there is no registration or non-equivalent registration, TTMRA is not relevant.

3.0 Valuers Registration Boards' Disciplinary Powers

3.1 Complaints of competency against registered valuers in New Zealand generally arise because valuers complete market valuations for mortgage security purposes outside their areas of expertise. In this respect areas of expertise relate to:

(i) A geographical location within which they are familiar.
(ii) A type of property valued with appropriate valuation experience.

3.2 Valuers registered under TTMRA are not required to reside or work continuously in a particular geographical location or perform valuations within an area of property expertise. Valuers registered under TTMRA can reside in one country and operate as registered valuers in another, without knowledge of that country's laws or markets.

3.3 In the event that a complaint is laid against a registered valuer in a country other than that of that valuer's country of domicile, there is no mechanism under The Valuers Act 1948 to discipline the valuer residing in another country. Accordingly, the public may have no protection.

3.4 There is a wide range of specific legislation to each of Australia and New Zealand that affects the valuation of property. For example, there is no equivalent in Australia of the Resource Management Act or the Treaty of Waitangi. There is no requirement under TTMRA for a registered valuer to become conversant or to remain conversant with changes to legislation.

3.5 Registration as a valuer under TTMRA is "for life" with no requirement for a "competency test" to ensure that the registration remains current, relevant or that the registered valuer is competent to practice.

4.0 Deregistration

4.1 A registered valuer from one country is deemed to be registered in the other under TTMRA There is no recourse against the non-equivalent valuer for work undertaken during the deemed registration period, if registration is refused because the valuer's registration is not equivalent.

4.2 The Valuers Registration Board of New Zealand has no right of appeal. Section 5 of the TTRMA overrides the Valuers Act 1948.

5.0 Competency and Ethics

5.1 Complaints against registered valuers emerge well after the event that gave rise to the complaint. The time frame within which complaints are received can be as long as three years. A valuer registered in accordance with TTMRA can continue to practice in his or her own country while being the subject of investigation in the country of mutual recognition.

6.0 Broad Objectives

6.1 TTMRA has not been successful in assisting trade and labour mobility of registered valuers. There are approximately 1400 registered valuers in New Zealand but there have been only 5 applications to practice in New Zealand and 5 to practice in Australia since the TTMRA came into force. One New Zealand application failed.

6.2 A small number of enquiries have not resulted in an application for the following reasons:

(a) There is no equivalency of registration between a number of states in Australia and New Zealand.

(b) Full equivalency exists only with respect to Queensland and Western Australia. Limited equivalency exists with respect to New South Wales.

6.3 The costs of TTMRA with respect to Registered Valuers have not justified the expense of setting up the system and maintaining the system.

6.4 Alternatives through reciprocity and partnering agreements between the Australian Property Institute (API) and the New Zealand Property Institute (NZPI) are of far greater significance. Commerce requires a level of expertise greater than registration for work that might otherwise benefit from TTMRA.

7.0 Implementation Issues

7.1 The Valuers Registration Board of New Zealand has an efficient administration in place to deal with applicants in accordance with TTMRA. There have been few applicants. Registration does not exist in many Australia states and accordingly TTMRA is only marginally relevant.

7.2 Dispute resolution mechanisms in accordance with TTMRA registration are potentially unworkable. Valuers registered under TTMRA can escape the disciplinary powers of the Board, defeating the objective of a registration system to protect the public.

8.0 Scope of Mutual Recognition

8.1 The opinion of the Valuers Registration Board of New Zealand is that mutual recognition should not be extended to negative licensing. Negative licensing does not provide control over a valuer operating in another country, or another state within a country. The Valuers registration Board of New Zealand has no powers of extradition, no basis for a disciplinary process and no basis for protecting the public.

8.2 Under negative licensing there is no equivalency. A valuer operating under negative licensing is not required to have relevant qualifications or practical experience to an equivalent standard. All applications under negative licensing would therefore be refused as negative licensing would destroy the concept of registration that requires:

+ A recognised qualification.
+ A number of years of approved training.

9.0 Conclusions

9.1 The Valuers Registration Board of New Zealand supports the principle of TTMRA.

9.2 There is currently no equivalency of registration between all states of Australia or between Australia and New Zealand.

9.3 TTMRA has worked satisfactorily for a limited number of applicants. To date there have been no complaints against TTRMA registered valuers to determine how a disciplinary process could work if at all, should the registered valuer be domiciled in the other country.

9.4 Negative licensing is a non-equivalent occupation. Any applicant under negative licensing would be refused as there could be no basis for determining equivalency.

9.5 New Zealand and Australia have a highly developed and harmonised reciprocity and partnering system between the Australia Property Institute (API) and the New Zealand Property Institute (NZPI). This far exceeds the objectives of TTMRA and meets the stringent requirements of commerce.

9.6 The reciprocity and partnering agreements between API and NZPI ensure all of the objectives of TTMRA are met without the costs, inefficiencies and uncertainties of the TTMRA process.

9.7 The Valuers Registration Board of New Zealand considers that TTMRA, with respect to the registration of valuers, is unnecessary.

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Valuers Registration Board of New Zealand

8 April 2003

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