**REAL ESTATE INSTITUTE**
**OF SOUTH AUSTRALIA**

# SUBMISSION

## TO
## PRODUCTIVITY COMMISSION

## REVIEW OF MUTUAL RECOGNITION
## (IN THE REAL ESTATE INDUSTRY)

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## Introduction

The Real Estate Institute of South Australia Incorporated (REISA) appreciates the opportunity to provide comment on the Federal Government's Review of the Mutual Recognition Agreement (MRA) and the Trans Tasman Mutual Recognition Arrangement (TTMRA).

The Institute noted with pleasure the terms of reference's broad and encompassing nature to address a comprehensive and thorough review.

The Institute will focus its submission on the following:

1. Adoption of Domestic Policy Processes in the development of curriculum for real estate agents versus regulatory qualification requirements at state level.

2. The practical effect of property transactions that do not encompass a comprehensive approach to curriculum development due to differing requirements under state regulation.

3. Expectations of real estate consumers.

4. The practical effect of varying training on consumers and real estate agents.

## 1. Adoption of Domestic Policy Processes in the development of curriculum for real estate agents versus regulatory qualification requirements at state level.

Regulations in each state vary significantly and are not "plugged in" to the VET/ANTA network of consultation. There appears to be lack of formal involvement by the state Regulators in the academic curriculum consultation, leaving a significant gap between the expectations of consumers and the qualifications and skills the real estate agents are trained to deliver.

While transacting real estate has become increasingly complex, Regulators in each state appear to have adopted a restricted view on the appropriate competency skills which are required to be possessed by a real estate agent in the provision of adequate consumer protection through real estate practice, as the legislation and/or the interpretation of the relevant state legislation does not incorporate and/or is not interpreted to accommodate ethical considerations in the practice of real estate by real estate practitioners. Even though ethical complaints may have caused financial loss (as perceived by the complainant) the complaints appear to have not been comprehensively recorded by the regulatory bodies for investigation as the legislation is not interpreted to encompass these considerations. Consequently, the regulatory bodies appear to be recommending to their Ministers a reduction of training requirements in order for the attainment of registration as a land agent or completion of qualifications at salesperson levels. Given the federal and state governments' stance on Codes of Conduct and ethical practices, South Australian legislative real estate training requirements governing the eligibility for registration as a land agent and the prerequisite qualifications which upon satisfactory completion enable the gaining of employment as a salesperson in real estate, appear to be at odds with the federal and state government objectives in consumer protection.

While the concept of Mutual Recognition is applauded, it appears that in its current format it is impossible for Mutual Recognition to work appropriately in the real estate industry due to the extreme variance in training qualifications in each state. This extreme variance creates opportunity for all real estate practitioners to operate using the lowest required standards in the country by gaining a qualification in one state then having it recognised for use in another state which may require far higher standards for the purpose of registration/licensing.

It is important to note that current assessments for recognition of real estate qualifications attained in one state but intended to practice as a real estate agent in another, under current Mutual Recognition requirements pose a major concern as the assessments by way of recognition of prior learning appear to be based on subjective criteria. Clear objective criteria need to be introduced in order for prior learning qualifications to be properly recognised and assessed under objective Mutual Recognition criteria.

***2.*** **The practical effect of property transactions that do not encompass a comprehensive approach to curriculum development due to differing requirements under state regulation.**

There is a need for a minimum educational standard and minimum attainment of qualifications for real estate agents in order to protect consumers' most important financial transaction and purchase that individuals and families will make in their lifetime.

The training package appears to work on the premise of "self regulation". This philosophy is not uniformly endorsed. In fact "co-regulation" appears to be the preferred approach in delivering tangible outcomes to the real estate consumers and real estate practitioners.

In May 2001, the real estate industry endorsed a real estate stream of the Property Development and Management Training Package (PRD01). The Training Package incorporates the following real estate qualifications:

Certificate III in Property (Real Estate) - PRD30101;

Certificate IV in Property (Real Estate) - PRD40101; and

Diploma of Property (Real Estate) - PRD50101.

Implementation of the qualifications under PRD01 in the States and Territories is proceeding slowly and is variable between jurisdictions – again because of difficulties related to licensing interpretation of requirements in some jurisdictions.

The REISA supports regulation of the real estate industry by way of educational qualifications and licensing/registration, encompassing a minimum prerequisite educational standard. In practice this requires practitioners in the real estate industry to attain the appropriate educational qualifications applicable to each real estate occupation in order to achieve the necessary protection for the consumers served by the industry.

## *3.* Expectations of real estate consumers

Consumers expect real estate agents to be appropriately educated as well as regulated. The real estate industry occupations requiring educational qualifications incorporate the following occupational categories:

- Real Estate Agent (owner or manager responsible for legislative compliance),
- Real estate salesperson,
- Auctioneer,
- Real estate property manager,
- Business Broker,
- Property Developer (if selling the developed property),
- Body Corporate Manager,
- Shopping Centre Manager.

Currently there are differences between industry and regulators on the minimum competency requirements for licensing that must be met to satisfy regulatory requirements. There are differing views on what occupations should be regulated, and what form such regulation should take, particularly in relation to standards of education requirements for registration and licensing. Differences between the States and Territories legislation include:

a. criteria for suitability for all classes of licences,

b. eligibility through education for real estate agent's registration/licence,

c. criteria for eligibility for auctioneer's licence and other licences, and

d. methods of agency appointments.

There should be agreed national education standards and recognition of education attainment throughout Australia and New Zealand for Mutual Recognition to achieve its objectives. Australia needs consistent legislation in the States and Territories dealing specifically with education and licensing/regulation requirements.

## 4. The practical effect of varying real estate training on consumers and real estate agents

Real estate services are regulated at state levels by registration or licensing.

There appear to be significant differences in the regulatory requirements from one state to another. For example, negative licensing requirements for real estate salespersons apply in South Australia.

While it appears that the current view of regulators is that the qualifications presently required for entering the real estate sector are excessive, the regulators' only perspective appear to be the relevant provisions for qualifications under the State Acts.

This raises consumer protection issues which need to be addressed, as the current educational requirements at state levels appear to be below the minimum expected qualification standard, in ensuring consumer protection in real estate transactions.

**Summary**

The educational policies for real estate professionals will shape the future of the Australian and New Zealand property market. To that extent they have to be considered extensively, comprehensively and implemented appropriately. The consideration and implementation of the training qualification policies will determine the property image Australia and New Zealand will attract internationally and thereby the confidence the public will place in real estate transactions.

**Recommendations**

In order to address the lack of uniformity in the educational requirements that are intended to provide appropriate consumer protection, the REISA recommends the following:

1. Minimum educational entry level barriers to be introduced for training in real estate.

2. The industry and its regulators to agree definitions for terms used at state regulatory level.

3. Identification and agreement on the real estate occupations that require regulation by way of licensing, registration, or a combination of licensing and registration:
    - Real Estate Agent (owner or manager responsible for legislative compliance),
    - Real estate salesperson,
    - Auctioneer,
    - Real estate property manager,
    - Business Broker,
    - Property Developer (if selling the developed property),
    - Body Corporate Manager,
    - Shopping Centre Manager.

4. For the Real Estate Institutes (REIs) and state regulators to consult with the National Industry Training Bodies (ITABS) on the appropriate training packages for real estate occupations.

5. For each industry occupational category, the complete range of competencies to be considered extensively to ensure the appropriate competency of skills is adopted in order for consumer interests to be protected in accordance with State/Territory real estate legislation.

6. State regulatory standards to match expected federal training standards for training, in order to qualify for practising as a real estate agent.

7. Objective assessment criteria to be introduced for the purposes of Mutual Recognition prior learning qualifications.

8. The interests of consumers should be the driving force in the considerations under Mutual Recognition. The impact on consumers and the practical considerations and effect of new entrants in the real estate industry should be the primary motivation for considerations related to Mutual Recognition in the real estate sector.