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3 July 2008

Mutual Recognition Review
Productivity Commission
LB2 Collins Street East
MELBOURNE VIC 8003

Via email: mutualrecognition@pc.gov.au

Attention: Carole Gardner (Admin Coordinator)

Dear Ms Gardner

Productivity Commission - Mutual Recognition Review

I refer to the Issues Paper on the Review of Mutual Recognition Schemes that the Productivity Commission has recently released and for which submissions are now being sought until 18 July 2008.

The Settlement Agents Supervisory Board ("the Board") has viewed with particular interest, the ongoing developments regarding mutual recognition and the resultant implications for different occupational groups.

The Board is the licensing authority and regulatory body for settlement agents (conveyancers) carrying on business in Western Australia. As part of its statutory functions, the Board administers the principal legislation (the *Settlement Agents Act 1981*) and all other subsidiary regulations and instruments governing the activities and conduct of settlement agents. Specifically, and under section 8(1) of this Act, the Board's role is to:

- "(a) to advise the Minister as to the general administration of this Act;*
- (b) to make recommendations and submit proposals to the Minister from time to time with respect to regulations to be made under this Act;*
- (c) to administer the scheme of licensing and registration established under this Act;*
- (ca) to conduct and promote education and provide advisory services for persons who are licensed or registered under this Act, or involved in the administration of this Act, and for members of the public on —*
 - (i) matters relating to the operation of this Act;*
 - (ii) matters relating to the policies of the Board;*
 - (iii) matters relating to the operations of settlement agents; or*
 - (iv) any other prescribed matter;*
- and*
- (d) to carry out such other functions as are conferred upon the Board under this Act."*

The Board acknowledges the fundamental principles and reasoning that underpin mutual recognition, notably that inter-jurisdictional obstacles should be minimised wherever possible, to improve productivity for professions and occupational groups.

The Board has endeavoured to promote these objectives through its stewardship of the content and standard of the prescribed educational courses that a prospective applicant must complete so as to be eligible for the grant of a licence and triennial certificate. The Board develops these courses in consultation with registered training organisations in accordance with a national accreditation framework. The Board also introduced Compulsory Professional Development (CPD) at the beginning of 2008. CPD is aimed at ensuring that settlement agents (conveyancers) maintain a level of skills that is commensurate with the needs of clients and the developments occurring throughout the industry.

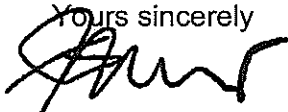
The Board has concerns about the apparent shortcomings of the equivalency provisions of the mutual recognition legislation which preclude settlement agents licensed in Western Australia from carrying out certain functions in some other State jurisdictions. The Board appreciates that other State jurisdictions have prescribed different categories of conveyancers within their respective legislation. Such regimes in turn, determine the scope of functions that can be performed by licensed persons within the particular categories.

In Western Australia, the *Settlement Agents Act 1981* presently provides for two categories of settlement agent, Real Estate Settlement Agents and Business Settlement Agents. An applicant who satisfies prescribed educational qualifications and meets the criteria of a "fit and proper person" is eligible for the grant of a real estate settlement agents licence or a business settlement agents licence, or both. Clause 1 of Schedule 2 to the Act sets out the types of functions that can be performed by a real estate settlement agent and a business settlement agent. Under clause 2 of Schedule 2 to the Act the applicant is required to have a sound knowledge of other legislation affecting the work performed by settlement agents. The Board notes that similar requirements are prescribed in the legislation of other State and territory jurisdictions (e.g. New South Wales, Northern Territory, South Australia and Victoria).

Therefore, the Board submits that the objectives of mutual recognition are compromised because of settlement agents licensed in Western Australia being denied registration in those State and Territory jurisdictions where the legislation has created equivalency issues.

I trust that this information is of assistance. If possible, it would also be appreciated if the Productivity Commission could direct all future matters involving conveyancing in Western Australia to the Board to negotiate with peak industry bodies and consult with individual licensees as appropriate.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mirina Muir', written over the typed name.

Mirina Muir
Chairwoman