

AUSTRALIAN PROPERTY INSTITUTE INC.

REVIEW OF MUTUAL RECOGNITION SCHEMES

SUBMISSION TO THE PRODUCTIVITY COMMISSION

JULY 2008

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BACKGROUND

The Productivity Commission has been requested to undertake a review of the Mutual Recognition Agreement (MRA) and the Trans-Tasman Mutual Recognition Arrangement (TTMRA) and to report within nine months of commencing the study.

The Commission is to:

- a) assess the coverage, efficiency and effectiveness of the MRA and TTMRA since the Commission's 2003 Review, with particular attention to:
 - i) the implementation of the 2003 review findings;
 - ii) matters identified by the Cross Jurisdictional Review Forum; and
 - iii) matters identified by the COAG Skills Recognition Steering Committee.
- b) assess how the administrative provisions (such as the annual roll-over of the special exemptions under the TTMRA) can be amended and/or enhanced to support the more efficient operation of the MRA and/or TTMRA;
- c) examine whether any components of overseas models of mutual recognition or any other changes might be made to enhance the functioning of the MRA and TTMRA;
- d) explore any possible implications for the operation of the TTMRA arising from participating jurisdictions' bi-lateral engagement with third countries.

In undertaking the research study, the Commission is to consult relevant stakeholders in Australia and New Zealand, including with the Cross-Jurisdictional Review Forum and the COAG Skills Recognition Steering Committee.

The Commission's research findings shall be presented to Australian Heads of Government and the New Zealand Prime Minister nine months from the date of commissioning and the Commission's report is to be published.

Within three months of receiving the Commission's findings, the Cross-Jurisdictional Review Forum is to present to Australian Heads of Government and the New Zealand Prime Minister a Review Report responding to those findings.

AUSTRALIAN PROPERTY INSTITUTE (API)

The Australian Property Institute, (formerly known as the Australian Institute of Valuers and Land Economists), has enjoyed a long and proud history.

Originally formed over eighty years ago in 1926, the API today represents the interests of approximately 8,000 property experts throughout Australia. As the peak professional property organisation the API has been pivotal in providing factual and dispassionate advice on a broad range of property issues addressed by the Commonwealth and State/Territory governments since the API was formed.

In addition, the API's advice has increasingly been sought by overseas bodies such as the United Nations, the World Bank and the International Valuation Standards Committee, evidencing a level of expertise within the API and its membership which is recognised globally.

However, as a professional organisation the primary role of the Australian Property Institute is to set and maintain the highest standards of professional practice, education, ethics and discipline for its members.

API members are engaged in all facets of the property industry including valuation, property development and management, property financing and trusts, professional property consultancy, plant and machinery valuation, town planning consultancy, property law, and architecture. Membership of the Australian Property Institute has become synonymous with traits and qualities such as professional integrity and client service, industry experience, specialist expertise, together with tertiary level education and life long continuing professional development.

Members are the API's greatest asset, and the Australian Property Institute is committed to maintaining a strong base for the future of the property profession through the broadening of the expertise, and knowledge of the membership.

EXECUTIVE SUMMARY

The purpose of the submission is to put forward the API's views on the MRA and the TTMRA, taking into account the Productivity Commission's Issues Paper of June 2008.

The API would welcome the opportunity to work with the Federal, State and Territory governments in order to put in place a consistent, seamless system which ensures:-

- consumer protection
- acceptable entry standards
- mobility of the work force

The current operations of MRA and TTMRA are unacceptable to the Australian Property Institute.

The API is happy to discuss any of the matters raised in its submission or to provide any additional information required. Arrangements can be made by contacting Mr. Grant Warner, API National Director on telephone number (02) 6282 2411.

COMMENTS AND RECOMMENDATIONS

General

The legislation affecting the licensing / registration of the valuation profession has been the subject of considerable change in Australia since the mid 1990s.

There is, today, very little consistency in how the licensing of the profession is handled.

The two Territories have never had legislation covering the licensing of valuers. The market place has effectively relied on the Australian Property Institute (formerly the Australian Institute of Valuers and Land Economists) which has been the professional home of valuers since 1926. The primary role of the Australian Property Institute is to set and maintain high standards of professional practice, education, ethics and discipline.

The Territories are not covered by the Mutual Recognition Agreement (MRA).

The Victorian government had legislation in place until 1994 when it deregulated the profession. However, since that time it has put in place barriers which protect public sector users by gazetting the qualifications and experience required to perform council and other government valuation work in that State.

As published by that State on 21 Feb 2008, a valuer must be:

- a. an Associate or Fellow Member of the Australian Property Institute who has Certified Practising Valuer status; or
- b. a person who is registered or licensed as a valuer in any other state or territory of Australia, who also holds Associate or Fellow membership of the Australian Property Institute as a Certified Practising Valuer.

The API supports the initiatives of the Victorian government, however, it does beg the question of consumer protection.

Victoria is not covered by the Mutual Recognition Agreement.

The South Australian and Tasmanian governments have gone from a “full” registration process to a negative registration regime.

The Tasmanian legislation effectively states that a person who meets the requirements of the API can carry on the business as a land valuer. However, the South Australian legislation deals in either academic qualifications or professional body membership.

South Australia and Tasmania are not covered by the Mutual Recognition Agreement.

The three remaining States – Western Australia (*Land Valuers Licensing Act 1978*), New South Wales (*Valuers Act 2003*) and Queensland (*Valuers Registration Act 1992*) still have a “full” licensing regime in place which brings into play the Mutual Recognition Agreement. However, because of the vastly differing educational and practical experience requirements it creates a situation where the “benchmark” is set from the bottom up.

Queensland and Western Australia have similar minimal entry requirements which in practical terms require the following:

- (a) good character and repute
- (b) endorsed property degree or equivalent
- (c) two years of practical experience
- (d) submission of valuation reports and the successful completion of a professional interview

New South Wales applies the following minimal entry requirements:

- (a) advanced diploma in property (valuation)

As mentioned above, besides the varying State licensing regimes in place, the Australian Property Institute is the professional home of valuers of real property. Its membership requirements are uniform across all States and Territories.

Whilst it is not compulsory for valuers to be a member of the API, the vast majority are, as the market dictates such through the requirements of the lending institutions, mortgage insurers and governments who expect API membership of practitioners undertaking their work.

The API has the following minimal entry requirements for a member to be able to undertake any type of valuation work:

- (a) good character and repute
- (b) endorsed property degree or equivalent
- (c) two years of approved professional experience
- (d) submission of valuation reports and the successful completion of a professional interview

The Institute has recently created a Provisional Member class (effective 1 January 2008) which restricts the member to valuing only certain types of residential property work. The following minimum entry requirements apply:

- (a) good character and repute
- (b) endorsed advanced diploma in property (valuation)
- (c) one year of practical experience
- (d) submission of valuation reports and the successful completion of a professional interview

It should also be noted that to maintain registration in Queensland, ten hours of Continuing Professional Development is required per annum. The API requires 20 hours of Continuing Professional Development per annum.

The Effect of Mutual Recognition

Mutual Recognition is concerned to ensure a person registered to practise an occupation in one Australian State or Territory can practise an equivalent occupation in another, without the need to undergo further testing or examination. Unfortunately it is not concerned with the underlying educational or practical experience requirements which are in place. This has the effect of “dumbing down” the profession to the State with the lowest entry requirements.

Mutual Recognition is only applicable to NSW, WA and QLD and whilst there is “legitimate” use of such, the primary use in today’s environment is in relation to ‘jurisdiction shopping and hopping’. This is because:-

- i) the educational qualifications to be a fully licensed valuer in NSW commence at an advanced diploma (two years fulltime) level compared to a property degree (three years full time) in WA or QLD.

You are therefore looking at:

- shorter time frame in which to satisfy the educational requirements
 - lower entry level to be able to undertake the course; and
 - less expensive option to obtain qualifications
- ii) the practical experience requirements in WA and QLD require the applicant to have a minimum of two years experience working with a registered valuer. In NSW there is no requirement for any experience following completion of studies.
 - iii) in WA and QLD the applicant is required to submit valuation reports and be subject to successful completion of a professional interview by the respective Licensing Boards. There is no such requirement in NSW.

- iv) no referees are required in relation to good character and repute for those applying in NSW.
- v) the effect of the creation of a Provisional Member class with restrictions by the API has resulted in the necessity of those API Provisional members wishing to be able to practise (albeit limited) to 'shop and hop' unless they have a minimum of two years practical experience.

The standards of WA and QLD are effectively compromised by the use of the Mutual Recognition processes. A similar effect on the Trans-Tasman Mutual Recognition Arrangement (TTMRA) also applies.

Negative Licensing

The Tasmanian legislation (*Land Valuers Act 2001*) says:-

“Qualifications required to carry on business as land valuer

A natural person must not carry on business, or hold himself or herself out, as a land valuer unless he or she has satisfactorily completed an accredited course and has the required practical experience as determined by the Australian Property Institute or any other organisation representing the interests of land valuers in Tasmania”

The legislation currently satisfies the standards of the API; does not impinge on any other state or territory; and is effectively in line with QLD and WA except for the Provisional member issue.

The South Australian legislative requirements are covered in the *Land Valuers Regulations 1995 (under the Land Valuers Act 1994)* and are in need of an update. The section dealing with ***Qualifications required to be held by land valuers*** states that a natural person must hold at least one of six qualifications. Three of the qualifications being a property degree, graduate diploma or a masters degree from the University of South Australia. The

other three being membership of the professional associations including what is now called the Australian Property Institute.

The regulations should be amended to reflect current courses and relevant membership categories from the bodies mentioned.

As Mutual Recognition is currently applied, the Australian Property Institute would not support the notion that negative licensing arrangements for the valuation profession be explicitly covered by the MRA and TTMRA.

OPTIONS

Maintain Mutual Recognition Arrangements as currently in place.

This option is not supported because:

- it only covers three of the eight States and Territories
- it does not take into account “best practice” through educational and practical experiences requirements
- it has the effect of reducing the licensing of the profession to the lowest common denominator
- it has no concern about consumer protection issues through the maintenance of standards

It is understood the main rationale for introducing the MRA and TTMRA was that regulatory differences between jurisdictions were unnecessarily impeding cross-border movements of goods and labour.

National Licensing

The Institute would strongly support the option of a national licensing system provided the issues of educational and experience requirements were resolved. The only reason for the licensing of the valuation profession is consumer protection. Unfortunately, Mutual Recognition as it currently operates, does not consider consumer protection.

It is noted that at the Council of Australian Governments (COAG) meeting of 3 July 2008, the Commonwealth and all States and Territories agreed to establish a National Trade Licensing system. Successful implementation of such is critical to eliminating the current inadequacies caused by Mutual Recognition.

Deregulation

If the status quo was to remain, the Institute would support the deregulation of the profession.

Such action would ensure that professional bodies like the Australian and Property Institute and the Property Institute of New Zealand could continue to maintain their high education and practice standards.

However, it would not fully resolve all issues associated with consumer protection.