



# REIA

REAL ESTATE INSTITUTE  
OF AUSTRALIA

## ***COUNTING THE COSTS***

Response to the Consultation Regulation Impact Statement  
Proposal for National Licensing for Property Occupations

*Submission by the Real Estate Institute of Australia*

OCTOBER 2012



**FOR  
SALE**

*Not everything that can be counted counts and  
not everything that counts can be counted.*

ALBERT EINSTEIN



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### ***About the Real Estate Institute of Australia***

REIA, through its members, the State and Territory Real Estate Institutes (REIs), represents around 80% of real estate agencies and is an important element of the broader property and construction sector, which makes a significant contribution to Australia's social climate and economic development. REIA members are

The Real Estate Institute of the Northern Territory  
The Real Estate Institute of Queensland  
The Real Estate Institute of the Australian Capital Territory  
The Real Estate Institute of Victoria  
The Real Estate Institute of Tasmania  
The Real Estate Institute of South Australia, and  
The Real Estate Institute of Western Australia.

The real estate profession employs approximately 77,000 people and contributes \$300 billion annually in economic activity.

Importantly, REIA represents an integral element of the small business sector. According to ABS statistics, 73% of real estate agency businesses employ fewer than 10 employees (over 50% of this portion employ fewer than 5 employees). Only 0.6% of businesses employ 50 or more.

REIA has the commitment of providing well-informed advice to the Federal Government, Opposition, the real estate profession, media and the public on a range of issues affecting the property market.

### **ACKNOWLEDGEMENT**

This submission has been prepared with the assistance of KM Corke and Associates, Canberra.

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## EXECUTIVE SUMMARY

The REIA supports the status quo option because the Regulation Impact Statement (RIS) fails to provide a reasonable case for change. The cost benefit analysis in the RIS is flawed and the overall proposal fails to take into account the needs of consumers. Maintaining the status quo would allow a revision of the RIS and, because REIA supports the principle of national licensing, subsequent reconsideration through the second tranche.

The reality is that there is much to be achieved before national licensing for the real estate profession can be introduced to the satisfaction of all stakeholders - consumers, all governments and the profession. So that national licensing reform can be developed in a holistic manner, licensing and 'conduct' matters should be developed together. The conduct harmonisation process, however, lags a long way behind with the Conduct Harmonisation Working Group (CHWG) established to discuss the state regulators' operational requirement proposals in anticipation of national licensing, having not met since July 2011 and leaving many important areas unresolved.

Moving the real estate profession to the second tranche of national licensing provides for a natural fit with the other property professionals. It also provides the opportunity to give due consideration to the matters raised by REIA in this submission, including examining a range of options in relation to the licensing of commercial agents operating at the 'top end' of the market.

REIA believes that the profession cannot endorse a 'race to the bottom' - a raw adoption of the lowest standard in force in Australia and adopt it nationwide.

REIA and its state and territory member institutes unanimously believe that because of the changes that constantly occur in an area as dynamic as the Australian property market, there is a net public benefit in having laws requiring that those wishing to enter the real estate profession have:

- the knowledge necessary to adequately discharge the responsibilities of someone providing services to the Australian consumer; and
- show they have taken steps to ensure that their knowledge base remains current.

These are considered threshold conditions necessary for someone obtaining and retaining a licence.

It is concerning that the proposal did not include an assessment of allowing mobility within the profession (as is the case in Victoria) with one licence. It may be that the wrong barrier is being removed.

### *The REIA Concerns*

REIA has the following concerns:

1. The conduct of the process leading up to the RIS, the conduct of the Information Sessions following the release of the RIS and the analysis in the RIS justifying the proposals. Any reform must conform with COAG best practice principles, including in particular adopting policy options generating the greatest net benefit to the community;
2. Entry level and agent licensing levels will drop which will result in increased consumer risk and a lowering of professional standards;
3. Commercial and property for the purposes of primary production, or rural real estate, will be deregulated meaning unqualified people will be able to assist consumers in these transactions (in many cases, one of the largest transactions they will make in a lifetime); and
4. Ongoing professional development will not be a requirement for licensing which will result in many practitioners not participating in legislative updates which are pertinent to their area of real estate practice.

Many of the concerns arise from the very narrow interpretation taken in the RIS of what offers a 'net benefit' to the Australian community.

REIA notes the Allen Consulting Group prepared a paper for the COAG Reform Council meeting in Melbourne in September 2012 which said:

*... More generally, it appears that a sufficient reason for pursuing a 'seamless reform' has been that the net benefits have been shown (however rigorously) to be positive, with comparatively little attention paid to how big the net benefits would be. The canonical example pointed out to us ... is uniform wine labelling. While no doubt a worthy reform in itself, uniform wine labelling could not be expected to have a big effect on the national economy (or even on the economies of the large wine producing states).<sup>1</sup>*

This has certainly been the case in the RIS where, for example, it is argued that the net benefit of removing commercial agent licensing is \$2.37m for all of Australia and the 'benefit' for Tasmania in the reform is \$100.

This quantum of benefit nor the implied accuracy of quantifications cannot be grounds on any reasonable assessment to remove *all* the consumer protection benefits that licensing in this area clearly offer, particularly given that nationally 76.4% of commercial sales are less than \$1m and are undertaken by small businesses and 'mum and dad' investors.

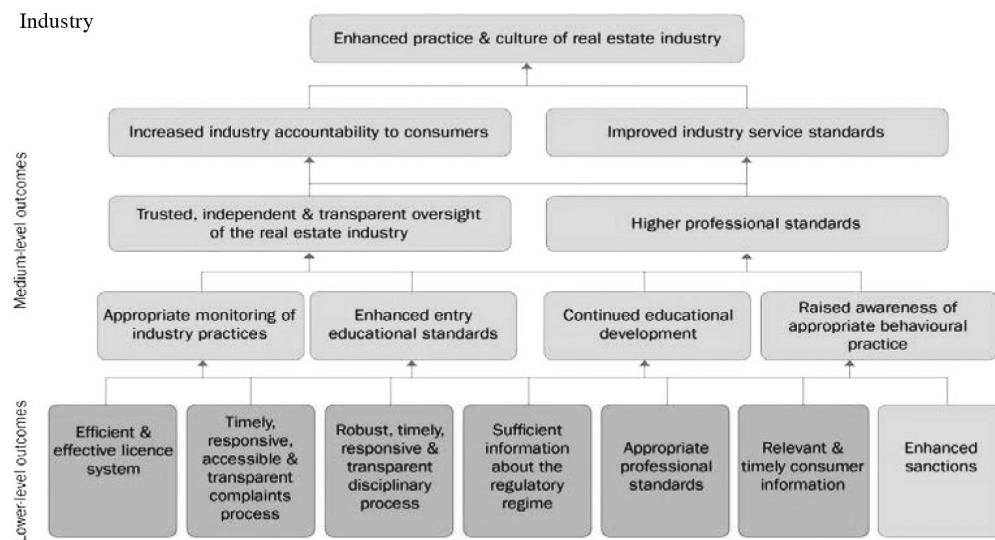
Similar observations can be made with respect to the small net benefits expected to be achieved by reducing the probity standards in the manner proposed in the RIS.

<sup>1</sup> Allens Consulting Group *Designing Regulatory Reform: Discussion of the Reform Models and Governance Arrangements in the COAG Seamless National Economy Reforms* (2012): 11

More generally, but importantly, REIA notes that whilst an attempt is made to capture some of the costs borne by some participants, there has been no attempt to quantify the cost to consumers in the RIS as a result of lowering the educational requirements for licensing, removing commercial property from the scope of real estate licensing completely and removing mandatory continued professional development (CPD).

**The REIA Alternative**

REIA proposes that Australia should adopt an approach similar to that in New Zealand as detailed in the following flow chart:



REIA believes if the following reforms are made this approach can be implemented:

**EDUCATIONAL QUALIFICATIONS**

REIA believes that those responsible for developing the RIS have not understood the variety of roles that must be undertaken by (in particular) agents’ representatives in an unsupervised environment and as a result have set education levels far too low. Real estate representatives should complete 18 units from the CERT IV qualification – the holistic course for employees designed for the purpose with industry involvement by the Construction and Property Services Industry Skills Council (CPSISC).

It follows that real estate agents should possess a qualification at Diploma level.

Other classes of licences such as auctioneers and those involved in commercial property should have educational qualifications prescribed that truly reflect the role they play and the responsibilities that consumers expect them to undertake.

**CONTINUED PROFESSIONAL DEVELOPMENT**

The experience of Western Australia shows that mandatory CPD greatly reduces the number of complaints received across the spectrum of real estate activity thus reducing consumer costs.

CPD is currently employed by the financial services sector and accountants and lawyers in Australia and used for the real estate profession in jurisdictions comparable to Australia. CPD is vital to update the skills and the information base of Australia’s real estate profession. This would see Australia adopting the international best practice

employed in the USA, New Zealand and Singapore.

If there are concerns about the quality of CPD delivery then that needs to be addressed directly rather than abolishing the requirement for it. The quality of what is provided as CPD (or, for that matter, training courses for qualifications) by service providers can be dealt with by the Advisory Committee established under the National Occupational Licensing Authority (NOLA) in the same manner as occurs under the National Registration and Accreditation Scheme of Health.

**Conclusion**

REIA reiterates its support for national licensing. However, it believes in neither national licensing for its own sake nor the dumbing down of the profession.

More generally, concerns about the direction of national licensing reform have also been expressed by other organisations in the first and second tranche of national licensing including the Australian Institute of Building, the Australian Institute of Conveyancers, the Australian Livestock and Property Agents Association, RICS Oceania as well as the Council of Small Business Australia (COSBOA).

This is also the view of the Australian community, as reflected in an extensive independent survey and in recent media articles.

REIA believes the Australian consumer is best served by a property industry licensing structure along the lines in place in New Zealand. This means that for a person to be able to offer themselves as a licensed person, it is a ‘threshold’ issue that they have both the skills to provide a quality professional service to consumers as well as a requirement to keep their skills current.

Accordingly, the Decision RIS should incorporate the recommendations by REIA that follow.



## RECOMMENDATIONS

1. REIA recommends that the COAG Standing Council on Federal Financial Relations adopt the status quo option proposed in the Consultation Regulation Impact Statement (RIS).
2. The Decision RIS contains a full quantification of the impact of the proposed reform including the consumer impacts.
3. More generally, REIA recommends that the *Best Practice Regulation Handbook* be amended so that greater guidance is given as to how to quantify the effect on consumer outcomes made as a result of introducing (or removing) provisions designed to promote consumer protection.
4. The proposed Occupational Licensing (Property-Related Occupations) National Regulations be amended so the qualifications for each class of licence are:
  - a. Real Estate Agent – CPP50307 Diploma of Property Services (Agency Management) (Details as contained in Attachment 5)
  - b. Agent’s Representative – 18 units from CPP07 Property Services Training Package (Details as contained in Attachment 6)
  - c. Auctioneer – 12 units from CPP07 Property Services Training Package (Details as contained in Attachment 7)
  - d. Commercial Real Estate Agent - CPP50307 Diploma of Property Services (Agency Management) (Details as contained in Attachment 9).
5. The decision to reduce personal probity requirements should be rejected.
6. Item 1 of Schedule 4 to the Occupational Licensing National Law Amendment Bill circulated in draft form be amended to:
  - a. Remove the word ‘residential’ in the definition of ‘real estate work’; and
  - b. Remove the definition of ‘residential real property’.
7. Continued professional development (CPD) should be mandatory for all licence categories. The content of CPD and, if necessary, who should provide the content, should be decided by the Licensing Authority.
8. The Legislative and Governance Forum on Consumer Affairs should be recognised as the relevant Ministerial Council for the purposes of developing regulations for the property industry, with a view of developing a licensing model similar to that operating in New Zealand.
9. That the real estate profession be moved to the second tranche of national licensing.

## INTRODUCTION

The Real Estate Institute of Australia (**REIA**) welcomes the opportunity to provide a response to the Consultation Regulation Impact Statement Proposal for National Licensing for Property Occupations (**RIS**).

This submission is endorsed by REIA’s member REIs, representing 80% of the Australian real estate profession – the Real Estate Institutes of the Northern Territory, Queensland, Australian Capital Territory, Victoria, Tasmania, South Australia and Western Australia. A letter of endorsement signed by all member REI Presidents is at **Attachment 1**.

The proposal to replace the current system of state licensing schemes for property occupations with a national licensing scheme forms part of the Council of Australian Governments’ (**COAG**) ‘seamless economy agenda’.

Whilst REIA supports the concept of national licensing, any reform must conform with COAG best practice principles, including in particular adopting policy options generating the greatest net benefit to the community.<sup>2</sup> REIA believes that the profession cannot endorse a ‘race to the bottom’ as proposed in the RIS – a raw adoption of the lowest standard in force in Australia and adopt it nationwide.

Further, REIA cannot understand how this RIS could conclude it was appropriate to remove all consumer protection from commercial and rural property sales when recent Victorian and NSW reviews of property regulation conducted against the requirements of the Competition Principles Agreement, as required by National Competition Policy (discussed fleetingly on pages 168-169 of the RIS), came to an alternative conclusion.

### ***The Reasons for Licensing***

It is well known that a reason for licensing is to prevent market failure. This is particularly the case where consumers have insufficient or inadequate information:

*... Consumers may not have adequate access to the information they require to make decisions that are in their best interests. For example, consumers need access to information on the quality or content of products (including associated hazards). Sometimes, sellers may have access to better information than buyers (often referred to as ‘information asymmetries’). Under such circumstances, governments may regulate to require information disclosure, to provide the information directly, or place restrictions on the supply of goods or services regarded as dangerous.<sup>3</sup>*

<sup>2</sup> COAG *Best Practice Regulation: A Guide to Ministerial Councils and National Standard Setting Bodies* (2007):4

<sup>3</sup> *Victorian Guide to Regulation* (2011) p. 8-9

This is particularly the case with property, where many Australian families and small businesses rely on real estate agents to either negotiate or sell the single biggest investment they will make – be it the family home, a small business or the superannuation nest egg.

Consumer protection laws must therefore be present to ensure consumers are not at risk when they make a most infrequent, yet substantial expenditure.

Having professional and educated real estate agents also improves productivity with overall economic benefits.

### **The REIA Position**

REIA and its state and territory member institutes unanimously believe that because of the changes that constantly occur in an area as dynamic as the Australian property market – often from state and Commonwealth Government requirements - there is a net public benefit in having laws requiring those wishing to enter the real estate profession to not only have the knowledge necessary to adequately discharge the responsibilities of someone providing services to the Australian consumer; but to also show they have taken steps to ensure that their knowledge base remains current. These are considered threshold conditions to someone obtaining and retaining a licence.

REIA has made recommendations that vary from those contained in the RIS. It hopes the recommendations receive genuine consideration. This is because the process so far appears to have been an attempt to railroad a pre-ordained conclusion by government officers with greater affinity with the abstract operation of markets rather than the consumer protection considerations relevant in the conduct of property transactions.

### **The REIA Concerns**

REIA has three broad concerns with the proposals contained in the RIS

1. Entry level and agent licensing levels will drop which will result in increased consumer risk and a lowering of professional standards;
2. Commercial and rural real estate will be deregulated meaning unqualified people will be able to assist consumers in these transactions (in many cases, one of the largest transactions they will make in a lifetime); and
3. Ongoing professional development will not be a requirement for licensing which will result in many practitioners not participating in legislative updates which are pertinent to their area of real estate practice.

REIA has further concerns with

1. The conduct of the process leading up to the RIS;
2. The conduct of the Information Sessions following the release of the RIS; and
3. The analysis in the RIS justifying the proposals.

### **REIA Concerns Shared by the Public**

The Australian public also shares REIA's view. Research conducted during September 2012 by UMR Research found that:

1. 52% of respondents considered a real estate agent was a professional rather than a tradesperson;
2. 47% of survey respondents believed that a real estate agent should be qualified at a diploma level compared to 36% at certificate level;
3. 82% disagreed with the proposal that there be no requirement for real estate agents to keep themselves informed of changes to laws or undertake any professional development programs after commencing work; and
4. 69% disagreed with the proposal to remove the requirement for commercial properties to be sold and leased by licensed agents.

The findings are contained in **Attachment 2**.

This reflects findings made in a survey conducted for the Real Estate Institute of Victoria in 2006 which found that 86% of respondents supported a real estate agent having 12 months on the job experience before being authorised to sell real estate and with 93% of respondents supporting a requirement that a real estate agent must have completed the relevant real estate industry training program before being authorised to sell real estate<sup>4</sup>.

This suggests Australians have an intuitive understanding as to the reasons for the licensing of the real estate profession.

An interview by the South Australian Minister for Consumer and Business Services, John Rau, on Radio 5AA on 11 September 2012 sums up the view of the majority "If you're asking me, do I think it's a good idea to dumb down real estate agents? The answer is definitely no ... I don't want it at the expense of good practices."

**Attachment 3** lists media reports covering the RIS proposal for national licensing of the real estate profession.

<sup>4</sup> Australian Research Group Pty Ltd *Qualitative Research – Attitudes towards real estate agents in Victoria* (2006), conducted for the Real Estate Institute of Victoria. A total of 300 residents of Melbourne were interviewed during February 2006

### ***The Process Following the Receipt of Submissions to the Discussion RIS***

Whilst REIA reaffirms its support for national licensing for the real estate profession it is adamant that it would be mischievous to use this support to then mount an argument that REIA will support *any* national regulation of *any* quality.

Regulation merely adopting the lowest common denominator defeats the purpose of ensuring that consumers can trade property, or have their property managed, safe in the knowledge that their interests are being protected through the knowledge that the professional they have retained has the competencies to protect their position.

REIA finally notes that until all states and territories sign up to the process, a committee of officers from State and Territory Treasuries (the Committee) will be advising the COAG Standing Council on Federal Financial Relations how to proceed.

This means economists are reporting to ministers advised by more economists with little practical experience in property (or the electrical trades, refrigeration or any other first wave NOLA professions). It became apparent at Information Sessions the mindset of the regulators is to implement the **minimum** amount of regulation thought necessary to protect consumers rather than the **necessary** level of regulation to protect consumer interests.

REIA therefore trusts that the Decision RIS will:

1. Properly reflect a full consideration of submissions made to the Discussion RIS, and;
2. Amend, where necessary, the recommendations contained in the current RIS for the consideration of (at first instance) the Committee and then subsequently the various elements of the COAG process.

### ***Automatic Mutual Recognition***

REIA believes that 'automatic mutual recognition' is very much a sub optimal solution.

At least with mutual recognition (as currently practised) the normative practice established by the law of requiring a person to register in the 'foreign' jurisdiction means the applicant has every opportunity to become aware of the scope of practice and conduct requirements of that jurisdiction.

This lessens the chances of unlawful conduct.

Consumers would also have some greater protection from loss as the agent would need to be aware of and hopefully comply with conduct requirements such as holding mandatory professional indemnity insurance (where required) as well as the need to pay funds into the relevant property funds (to alleviate consumer losses from defalcation) and so forth. This is a better consumer option than the alternative which is to commence a common law action to recover any loss suffered.

It follows that automatic mutual recognition should only be considered if national licensing cannot be achieved with the changes proposed by REIA's recommendations.



## CONCERN 1: RIS INACCURACIES AND PROCESS CONCERNS

In August 2012 the Productivity Commission published a draft report entitled *Regulatory Impact Analysis: Benchmarking* which said:

*For the majority of agencies, however, RIA was presented to the Commission as merely a formal framework for consultation (which in some cases would have been undertaken anyway as part of good policy making processes) or, alternatively, as a requirement to be 'ticked-off' at the end of the policy development process in order to get legislation introduced.<sup>5</sup>*

REIA fears that this mindset is present here, leading to a regulator driven scheme which is prejudicing the interests of the Australian consumer.

### **Property Occupations Interim Advisory Committee (POIAC) Consideration of Commercial Property Sales**

Early Information Sessions conducted by the COAG Taskforce indicated the reason why commercial property transactions were to be deregulated was because 'POIAC could not agree on a property value that a sophisticated consumer might deal with'. This point was also made in the RIS.

The issue of licencing commercial property work was considered by POIAC in some detail and there was a general view that it should be licensed subject to a hurdle value which would quarantine high end transactions. Likely values (such as \$50m and \$100m) were discussed on this basis. At the time the Chair of the Committee indicated this issue could be determined at a later time. The matter, however, never returned as the Steering Committee – composed of regulators only with no industry representation – decided that this sector should be deregulated without discussing this with POIAC. This in REIA's view was disappointing and serves to illustrate the approach by the regulators to achieve their desired predetermined outcome.

### **Survey Monkey**

Stakeholders were invited to comment on the RIS through registering their views using a 'survey monkey' with the questions detailed in the RIS. Unfortunately, on any objective assessment the questions posed are 'loaded' towards a preordained conclusion – hardly an objective way to receive alternative views. For example, it was not possible to support the concept of national licensing without implicitly, at least, supporting the proposals in the RIS. The alternative to making a written submission was not openly encouraged.

This is disappointing as this approach can only limit the weight that decision makers can give information received from the survey when making a final decision.

### **Conduct of Early Information Sessions**

REIA and its member state and territory institutes have been disappointed that at early Information Sessions conducted around Australia by the COAG Taskforce Government representatives (including those from NOLA) were, at times, aggressive advocates for the RIS recommendations.

There is a distinction between explaining why a particular position contained in a document such as the RIS was taken and advocating for its adoption in what are supposed to be 'Information Sessions'. This distinction was lost at times, leaving listeners to conclude that a foregone conclusion has been reached as to how the real estate profession will be licensed in Australia.

There was also a tendency by the presenters to imply that that all the proposals in the RIS had the support of POIAC when this was not the case. Further there was an unwillingness to be explicit about the role of the Steering Committee in the decision making process. It was only, if challenged, that the presenters acknowledged that the Steering Committee made the decisions and that these did not always reflect the POIAC consensus.

### **The RIS**

There are a number of areas of the RIS analysis that are incorrect. These have been identified by REIA and its member state and territory institutes in **Attachment 4**. When these are corrected the net benefit identified in the RIS is considerably diminished.

REIA believes the RIS does not contain the evidence necessary to support many of the proposed reforms.

There are two specific criticisms. The first is that, even if the quantification is right, the benefits provided by the reforms are frankly miniscule. The second is that there has been not been an attempt to recognise the cost to consumers arising from removing consumer protections currently in force in Australia – counting producer cost but not consumer benefits.

The near total lack of assessing the economic benefit of the proposal reflects in part a lack of understanding of the practice of real estate. Except around state borders there is little demand for interstate mobility. If the aim of national licensing is to provide a net economic benefit for the nation the RIS analysis should have compared what is currently proposed against the 'one size fits all' licensing model as exists in Victoria. It may be that by removing the red tape that divides the profession there is more to be gained than only allowing interstate mobility.

<sup>5</sup> Productivity Commission *Regulatory Impact Analysis: Benchmarking* draft report (2012): 7

### Miniscule Gain from Maximum Dislocation

REIA notes the Allen Consulting Group prepared a paper for the COAG Reform Council meeting in Melbourne in September 2012 which said:

*Generally, it appears that a sufficient reason for pursuing a 'seamless reform' has been that the net benefits have been shown (however rigorously) to be positive, with comparatively*

*little attention paid to how big the net benefits would be. The canonical example pointed out to us ... is uniform wine labelling. While no doubt a worthy reform in itself, uniform wine labelling could not be expected to have a big effect on the national economy (or even on the economies of the large wine producing states).<sup>6</sup>*

This is the case here, as can be illustrated through the reproduction of table ES 4 from the RIS:

**TABLE ES.4** Ongoing net impacts of national licensing for the property occupations, per year (\$ million)

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
<b>Total ongoing</b>	<b>34.13</b>	<b>0.75</b>	<b>5.79</b>	<b>29.49</b>	<b>4.92</b>	<b>0.51</b>	<b>1.34</b>	<b>1.81</b>	<b>78.73</b>
<b>Direct impacts on licensees</b>									
Removing commercial agent licensing	0.91	0.62	0.66	0.03	0.06	0.0001	0.08	0.002	2.37
Removing requirement for continuous professional development	25.57	-	-	16.80	-	0.27	0.87	-	43.52
Real estate agents – qualification changes	-	-	-	2.97	0.84	0.09	(0.04)	0.11	3.97
Licensees undertaking both real estate and business agency work – qualification changes	-	(0.02)	(0.04)	-	(0.01)	(0.001)	-	-	(0.06)
Agent representatives – qualification changes	(1.66)	(1.71)	2.88	2.14	2.75	-	-	1.04	5.44
Strata managers – qualification changes	-	(0.75)	-	-	-	-	-	0.03	(0.73)
Auctioneers – qualification changes	0.19	0.09	0.02	0.20	0.07	0.005	0.01	(0.003)	0.59
Consistent licence period (1 or 3 years)	2.34	1.87	-	-	0.05	(0.02)	0.19	0.10	4.53
Agent representatives in Vic – Increasing frequency of processing	-	(0.19)	-	-	-	-	-	-	(0.19)
Removing the need to hold multiple licences	0.75	0.39	0.50	0.20	0.15	0.07	0.12	0.11	2.30
<b>Government impacts</b>									
Removing the need to hold multiple licences – government	(0.25)	(0.10)	(0.27)	(0.02)	(0.10)	(0.001)	(0.17)	(0.02)	(0.93)
<b>NOLA – operational</b>	<b>(0.37)</b>	<b>(0.28)</b>	<b>(0.23)</b>	<b>(0.12)</b>	<b>(0.09)</b>	<b>(0.03)</b>	<b>-</b>	<b>(0.01)</b>	<b>(1.12)</b>
<b>Labour mobility</b>	<b>1.41</b>	<b>0.64</b>	<b>1.34</b>	<b>0.76</b>	<b>0.18</b>	<b>0.01</b>	<b>0.05</b>	<b>0.03</b>	<b>4.43</b>
<b>Broader impacts</b>									
<b>Business value-add</b>	<b>5.21</b>	<b>(0.21)</b>	<b>0.93</b>	<b>5.97</b>	<b>1.01</b>	<b>0.09</b>	<b>0.20</b>	<b>0.38</b>	<b>13.58</b>
<b>Other ongoing benefits<sup>a</sup></b>	<b>0.01</b>	<b>0.39</b>	<b>-</b>	<b>0.56</b>	<b>0.001</b>	<b>0.02</b>	<b>0.04</b>	<b>0.02</b>	<b>1.04</b>

NOLA = National Occupational Licensing Authority

a Other ongoing benefits include the following impacts: 'removing experience requirements', 'removing advertising requirement' and 'reducing personal probity requirements'.

For example, this reflects that the net benefit of removing commercial agent licensing is \$2.37m for all of Australia, with Tasmania receiving as little as \$100 of benefit.

It is difficult to see how any reasonable person can honestly say this quantum of benefit is grounds to remove *all* the consumer protection benefits that licensing in this area clearly offers.

In calculating the net benefit in the above table it is also noted that the calculation (Table 4.71 of the RIS) presumes a licensed agent in NSW must undergo 7.5 hours of continued professional development (CPD), a concept the RIS proposes removing from those states and territories that require it. In fact, only 4 hours CPD is required. This reduces the estimate of cost savings in NSW by 47% from \$25.6m to \$13.7m. This error in itself removes nearly \$12m from the \$79m savings in the RIS proposal.

The calculations of the benefits from implementing the proposals are based on Western Australia having 21,742 registered sales representatives and licensed agents. The actual number is around 11,000. The consequence is that all the expected benefits to Western Australia reported in the RIS are double what the estimate should be and subsequently reduced for Australia. All components of the total such as the cost of CPD delivery and the cost of licence

renewals are similarly double what they should be. For CPD the cost saving would be \$8.4m not \$16.8m. This together with the error in the NSW estimate means that the total estimate of the cost saving from CPD is \$23.12m and not \$43.52m.

The weakness discussed in the Allens paper for the COAG Reform Council is apparent here.

**Counting Producer Cost but not Consumer Benefits**

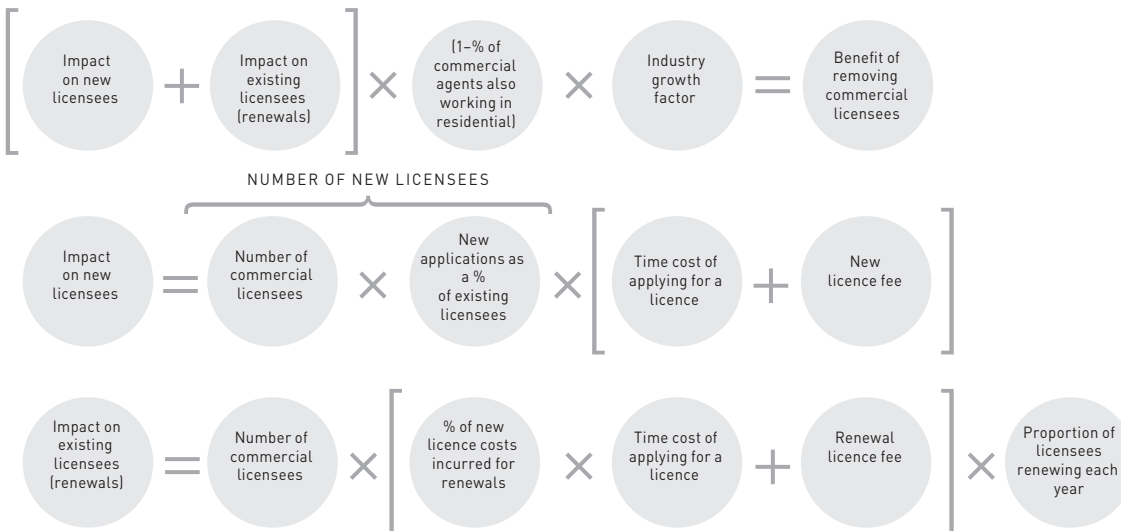
The RIS uses standard microeconomic analysis to determine costs involved in the regulation of the property industry with the intention to maximise allocative efficiency and to prevent the capture of undue surpluses by producers.

This has been achieved through the mechanical application of techniques contained in the Department of Finance’s *Best Practice Regulation Handbook*.

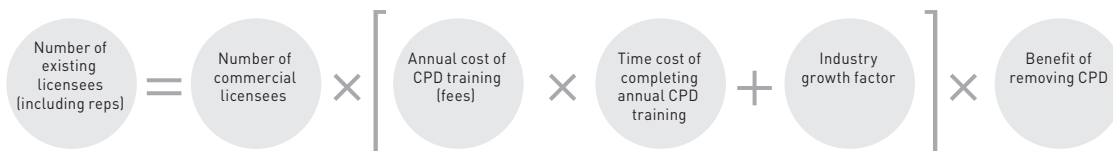
Whilst an attempt is made to capture some of the costs borne by some participants, there has been no attempt to quantify the cost to consumers flowing from the RIS proposals. Good examples are provided by the analysis of removing commercial property from the scope of real estate licensing completely and CPD in those jurisdictions where they are mandatory.

Figures 4.18 and 4.19 of the RIS illustrate this failure:

**FIGURE 4.18** How to calculate the impact from removing licensing of non-residential property agency work



**FIGURE 4.19** How to calculate the impact of removing continuous professional development requirements



CPD = continuing professional development

Business costs are included but not consumer costs.

In a discussion on what the European Union calls the 'consumer welfare standard', Luth and Cseres said:

*While competition law and policy is an economic efficiency-oriented policy and therefore apt to promote the overall economic welfare of society, in consumer law not only economic efficiency but also equity acts as a fundamental principle. Consumer welfare is expressed in both economic and non-economic aspects within the realm of consumer protection and it has almost always a social justice component as well. Competition policy principles can help to steer consumer protection and to ensure that it remains consistent with consumer sovereignty and economic efficiency. Making use of these synergies enhances conceptual clarity as well as the effectiveness of policy decisions.<sup>7</sup>*

They also said:

*Obviously, economic efficiency has its limitations in consumer protection as there are overriding social interests that justify derogations from the economic calculation and because it might be difficult to quantify the benefits of consumer regulation for example when health and safety issues are at stake.<sup>8</sup>*

It is therefore disappointing the RIS analysis makes no attempt to assess the value of consumer protection. REIA believes such an analysis should have been attempted given the decision to remove various mechanisms in force in various jurisdictions.

By contrast both:

- *The Australian Consumer Law – Consultation on Draft Regulatory Impact Statements<sup>9</sup>* prepared by the Treasury on 16 November 2009; and
- *The 2008 Review of the Property, Stock and Business Agents Act 2002* prepared by the NSW Office of Fair Trading

were able to discuss the reform of consumer protection laws in a way that properly set out the strengths and weaknesses of proposed reforms without resorting to presenting a faux accuracy of benefits down to, for example, \$100, as was the case in this RIS.

The Best Practice Regulation Handbook indicates:

*When a proposal uses and produces goods sold in markets, estimating costs and benefits is in most cases conceptually more straight forward and is covered in a number of existing CBA guides.*

*It is, however, often difficult to identify and measure the effects of a regulatory proposal, especially when there are*

*impacts on goods not traded in markets, such as pollution levels and access to scenic views.*

*Costs and benefits can be difficult to value in dollars because their magnitude may be unknown or uncertain, or because even if their impact is known, they are difficult to express in monetary terms. Examples include environmental, social and cultural considerations, regional impacts, health and safety, publicity and national defence.*

*It is important that you identify and describe all costs and benefits. You should then quantify them as much as possible. When valuations are uncertain, sensitivity analysis should be used to test how varying the value assigned affects the overall viability of the proposal. If the impacts cannot be valued, they should still be quantified in non-monetary terms. For example, a regulation to reduce pollution could quantify the expected reduction in emissions. The quantification should aim to identify matters such as the assumptions applied to determine the effects, the impact on the community (such as how many people are affected and how) and the likelihood of the full impact being realised.<sup>10</sup>*

In this context, the Executive Summary to the RIS notes impact on consumer outcomes as one of a number of impacts difficult to quantify. It goes on to say:

*Not all of these impacts can be easily quantified, for example, the improvements and gains expected to flow from the establishment of a national register for property occupations. In relation to the impacts that have been quantified, it is important to acknowledge that some estimates are based on scenarios or hypothetical assumptions so as to provide a guide or point for discussion and feedback from stakeholders – for example, the estimate of the benefit to the economy as a whole flowing from greater labour mobility.<sup>11</sup>*

Part 4.1.3 of the RIS provides a page or so of analysis under the heading *Impact on Consumer Outcomes* and (what is largely) a discussion on the size of trust funds in Attachment F. The discussion relating to property work is as simple as:

*That said, the deregulation of non-residential property agency work would reduce the level of protection of buyers and sellers of non-residential property. The parties to these transactions, however, are often large informed corporations that do not require the consumer protection measures usually associated with property agent work.<sup>12</sup>*

And there is nothing relating to the removal of CPD in those jurisdictions where it is in place.

7 Luth and Cseres *Response to the Green Paper on the Review of the Consumer Acquis – a focus on incentives and effectiveness* [http://ec.europa.eu/consumers/cons\\_int/safe\\_shop/acquis/responses/amsterdam.pdf](http://ec.europa.eu/consumers/cons_int/safe_shop/acquis/responses/amsterdam.pdf) :3

8 Ibid: 4

9 <http://archive.treasury.gov.au/contentitem.asp?ContentID=1665>, accessed 19 September 2012

10 <http://www.finance.gov.au/obpr/proposal/handbook/appendix-E-cost-benefit-analysis.html> accessed 30 September 2012

11 Page xx

12 Page 68

**→ RECOMMENDATION**

*REIA recommends that the COAG Standing Council on Federal Financial Relations adopt the status quo option proposed in the Consultation Regulation Impact Statement (RIS).*

**→ RECOMMENDATION**

*REIA recommends that the Decision RIS contains a full quantification of the impact of the proposed reform including the consumer impacts.*

**→ RECOMMENDATION**

*REIA recommends that the Best Practice Regulation Handbook be amended so that greater guidance is given as to how to quantify the effect on consumer outcomes made as a result of introducing (or removing) provisions designed to promote consumer protection.*

**CONCERN 2:****LOW ENTRY AND LICENSING LEVELS AND REMOVAL OF PERSONAL PROBITY CRITERIA**

As Part 3.4.7 of the RIS indicates, section 3(b) of the National Law requires licensing laws to, amongst other things, be proportionate so as to ensure consumer protection whilst ensuring efficiency and levels of access.

REIA believes that those responsible for developing the RIS have not fully understood the variety of roles that must be undertaken by, in particular, agents' representatives in an unsupervised environment. Otherwise, the reduction of educational standards proposed would not have been made.

**Real Estate Agent**

REIA notes and agrees with the finding contained in the NSW Office of Fair Trading 2008 statutory review of the *Property, Stock and Business Agents Act 2002* which said:

*The National Competition Policy review of property agent legislation in New South Wales found that the main reasons for licensing the activities of property agents were:*

- *consumers engage in property and business sales and purchases and other property transactions, relatively infrequently and therefore generally have limited knowledge of the market*
- *these transactions involve a large proportion of an individual's total wealth and are probably the most expensive transactions people undertake in their lives*
- *large amounts of money are held in trust by agents*<sup>13</sup>

Page 37 of the RIS says:

*Current approaches to the qualification entry level for real estate agents differ considerably across Australia:*

- *New South Wales, Victoria and Queensland require a Certificate IV.*
- *Western Australia, South Australia, Tasmania and the Northern Territory require a Diploma.*
- *The Australian Capital Territory requires completion of at least 18 units of competency taken from both qualification levels.*

*The identified risks associated with property work that could be mitigated by licensing include the safety of moneys held in trust, unethical or dishonest behaviour, poor quality of service and misrepresentation. The policy development process found that these risks could be covered by 21 units of competency undertaken to obtain a Certificate IV and that there is no evidence to support the need for a diploma level qualification rather than a Certificate IV for licensing requirements.*



*It was also noted that the Certificate IV level being proposed is currently the level of qualification requirement for Queensland, New South Wales and Victoria, where 83 per cent of real estate establishments are based.*

Merely noting the educational standard held by the largest number of practitioners and effectively proposing that as the educational basis for a national scheme is an overly simplistic analysis and not an appropriate rationale.

REIA believes that for the purposes of a real estate agent's licence the relevant qualification is CPP50307 - Diploma of Property Services (Agency Management).

Whilst called an 'agency management' course, regard must be had to the intention of the national training scheme (the Australian Qualifications Framework or AQF) when it refers to the outcomes of each qualification.

The AQF states that, in terms of application of skills and knowledge, a person who has completed a Certificate IV level of study would 'demonstrate the application of knowledge and skills:

- to specialised tasks or functions in known or changing contexts
- with responsibility for own functions and outputs, and may have limited responsibility for organisation of others; and
- with limited responsibility for the quantity and quality of the output of others in the team within limited parameters'.

In contrast, graduates of a Diploma will 'demonstrate the application of knowledge and skills:

- with depth in some areas of specialisation, in known or changing contexts
- to transfer and apply theoretical concepts and/or technical and/or creative skills in a range of situations
- with personal responsibility and autonomy in performing complex technical operations with responsibility for own outputs in relation to broad parameters for quantity and quality
- With initiative and judgement to organise the work of self and others and plan, coordinate and evaluate the work of teams within broad but generally well-defined parameters.'<sup>14</sup>

The Diploma requirements set out the skill set needed by a licensed real estate agent. Rather than being regarded as a trade performing repetitive work, real estate agents are professionals that must apply both:

- technical expertise that is, expertise in relation to the delivery of professional services utilising the skills of negotiation, communication and analysis of the property market; and
- the theoretical knowledge (i.e. understanding of the legislative requirements for each type transaction in the sale, lease and rental of residential, rural, commercial,

retail and industrial property) to achieve an outcome that provides maximum return to clients and minimum risk to consumers and to ensure that all staff within the agency are performing to the same standard of professionalism.

Some of these courses can arguably be regarded as providing general business management skills. Nevertheless, a properly functioning market in a licensed environment requires the operation of properly conducted businesses. If a business fails, the risk of defalcation is high.

Given that real estate agents are dealing with the largest investment of the typical person's life, the skills provided in the Diploma course provide a public benefit to the Australian community.

Real estate agents have a responsibility to exercise high levels of knowledge, expertise and professionalism in their conduct, particularly (but not only) when performing the role of agency principal (or 'nominee'). The failure of real estate agents to acquire these essential skills and knowledge through lack of mandatory licensing training has the potential for serious financial ramifications for consumers in these transactions. It should be noted, in this regard, that financial planners are required to undertake training of key knowledge, skills and competencies that are broadly equivalent to the 'Diploma' level in the Australian Qualifications Framework.<sup>15</sup>

It is also noted that there really are only small differences in costs between a Certificate IV and a full Diploma. A comparison of the figures contained in tables 4.74 and 4.75 of the RIS suggest a difference of only \$1000 - \$1500 between the costs of the two courses. It is not plausible to argue that this cost differential would be a sufficient disincentive to discourage a prospective entrant from entering the industry.

## → RECOMMENDATION

*REIA recommends that the proposed Occupational Licensing (Property-Related Occupations) National Regulations be amended so the qualification for Real Estate Agent is – CPP50307 Diploma of Property Services (Agency Management). Details as contained in Attachment 5).*

### **Agent's Representative**

REIA believes there is a lack of appreciation as to the role and the level of skills that an agent's representative, covering sales and property management, requires to display on a daily basis.

The following sets out a typical day of an agent's representative sales and agent's representative property management.

<sup>14</sup> Drawn from Australian Qualifications Framework Council *Australian Qualifications Framework* (2011) pp.34-38

<sup>15</sup> ASIC REGULATORY GUIDE 146: Licensing: Training of financial product advisers.

**A TYPICAL DAY IN THE LIFE OF AN AGENT'S REPRESENTATIVE (SALES) (ENTRY LEVEL)**

1. Prospect for listings (find someone who wants to sell make an appointment)
2. Prepare for and conduct a presentation
3. Appraise property, win the listing and list the property for sale, auction or private treaty
4. Complete Sales Agency Agreement documentation, a legally binding document between the agency and the vendor
5. Market property (for sale by private treaty or auction)
6. Show property and negotiate sales, including managing written offers and preparing offers on a contract of sale
7. Prepare contract of sale to be binding between the vendor and purchaser, assist the vendor in preparing the disclosure statement to serve on the purchaser
8. Manage property to settlement (inspections, dispute) including liaising with conveyancers, mortgage brokers and solicitors to facilitate sale.

Underpinning knowledge required:

9. Understanding of the workings of the real estate profession
10. State/territory legislation applicable to the real estate profession
11. Identifying, assessing and dealing with risk to agency and consumers
12. Communication skills (includes cultural awareness)
13. Documentation preparation skills
14. Negotiation/conflict resolution skills
15. Understanding of support professions aligned to real estate (such as conveyancers and mortgage broking)
16. Require an understanding of property management and body corporate.

**A TYPICAL DAY IN THE LIFE OF AN AGENT'S REPRESENTATIVE (PROPERTY MANAGEMENT) (ENTRY LEVEL)**

1. Prospect for listings. Make appointments with potential clients.
2. Prepare for and conduct a presentation
3. Appraise property (win the listing and list the property for rent)
4. Prepare management agreement to be a legally binding document between the agency and landlord
5. Market property
6. Show property, scrutinise potential tenants, referees checks and negotiate tenancy
7. Lease property, including preparing tenancy agreements, in line with legislative requirements and limitations
8. Implement a maintenance plan
9. Maintain and manage tenanted properties
10. Deal with tenancy disputes
11. Prepare for and present at tribunals

**Underpinning Knowledge**

Same as above with introduction to sales

Property managers deal with portfolios of hundreds of millions in dollars and rent rolls in millions. ABS reports that in 2011, 1,247,581 occupied private dwellings were rented by real estate agents or 16.1 per cent of all occupied private dwellings. This is 54.3 per cent of the total number of all Australian rented properties.

Applying the median house price to the number of houses managed by real estate agents and the median other dwellings price to the number of other dwellings managed by real estate agents for each state and territory, the total value of rented properties managed by agents is \$586bn. The total value of rent collected per annum is \$25bn<sup>16</sup>. In 2011 the average number of properties on a rent roll was 436.<sup>17</sup>

It must also be remembered that property managers are required to manage tenants through a long term relationship and at times, work through difficult situations particularly where rental arrears and damage to property is concerned. As demonstrated above, the role of salespeople and property managers, being authorised activities in the scope of work for an agent's representative, are specialist areas that require training in very specific competencies.

The RIS suggests that agent's representatives only undertake the following:

- CPPDSM4007A Identify legal and ethical requirements of property management to complete agency work
- CPPDSM4008A Identify legal and ethical requirements of property sales to complete agency work

<sup>16</sup> Australian Bureau of Statistics *Census of Population and Housing Spread Sheet B32, Tenure and Landlord Type by Dwelling Structure (2011)*

<sup>17</sup> Macquarie Relationship Banking *2012 Residential Real Estate Banking Report 2012*:2

- CPPDSM4015B Minimise agency and consumer risk
- CPPDSM4080A Work in the real estate industry
- CPPDSM4009B Interpret Legislation to complete agency work.

This does not take into consideration that the Certificate IV qualification is designed by CPSISC (with industry involvement) to be a holistic course designed for employees.

REIA believes that it is in the consumer's interest that skills are 'front-ended' – that is provided early to those wishing to participate in the property industry. Having an appropriate theoretical knowledge early, rather than picking it up as a career progresses, will lead to fewer errors which result in costs to the consumer and the business.

This is particularly the case for the property profession. Unlike some of the other trades in the first tranche of occupational licensing reform, such as the electrical or plumbing trades, those involved in real estate are often working remotely without direct supervision from a more experienced agent. The RIS fails to factor in this market reality, leading to a faulty analysis.

#### → RECOMMENDATION

*REIA recommends that the proposed Occupational Licensing (Property-Related Occupations) National Regulations be amended so the qualifications for an Agent's Representative are 18 units from CPP07 Property Services Training Package. Details as contained in Attachment 6.*

#### **Auctioneer**

Page 26 of the RIS says:

*Auctioneers conduct auctions through and on behalf of real estate agents. The policy development process found that while an auctioneer may not necessarily be involved directly with risks associated with financial transactions, it is essential that they have a sound understanding of legislation. It was also noted that currently auctioneers sign contracts on behalf of buyers in some jurisdictions.*

*An auctioneer under national licensing would confirm the reserve price with the seller, plan and implement auction-day procedures, and completing follow-up procedures after auction sale. However, the auctioneer would not be authorised to operate a trust fund; this would be the responsibility of the real estate agent.*

These provisions reveal a lack of understanding of the role the auctioneer plays in the process. In particular, the auctioneer doesn't just 'call the numbers' at the front of an auction. The auctioneer in fact plays a significant role in the sale of a property. In many cases, they will review the contract and disclosure statement prior to the auction to ensure that any inclusions and exclusions are announced during the course of the auction. They also need to meet with the vendor and receive instructions for the vendor or their agent prior to the auction. If the property is not sold 'under the hammer' they may be involved in negotiations to facilitate a sale after auction formalities. In some states,

auctioneers also have the authority to sign the contract on behalf of the purchaser.

It follows that a consumer would expect an auctioneer to have the technical competencies and qualifications similar to those of an agent's representative to undertake the role of the auctioneer.

#### → RECOMMENDATION

*REIA recommends that the proposed Occupational Licensing (Property-Related Occupations) National Regulations be amended so the qualifications for an Auctioneer are 12 units from CPP07 Property Services Training Package. Details as contained in Attachment 7.*

#### **Probity**

Currently, most jurisdictions stipulate that applicants for an agent's representative certificate or real estate agent licence must be 18 years of age or older. This ensures that real estate clients and consumers are dealing with a person of legal age with the authority to represent property. However, this requirement would be removed under national licensing, with only the 'nominee' of an agency (that is, the nominated principal licensee) being required to be at least 18 years of age. The logic behind this is that the nominee of an agency would be responsible for the supervision of any salesperson or property manager working within a real estate agency.

Salespersons and property managers have the contractual and legislative responsibility to achieve an outcome that provides maximum financial return to clients with the minimum risk to consumers. However, it is questionable as to whether a 14 or 16-year-old would have the knowledge, experience, professionalism or indeed the legal capacity that is expected in a real estate transaction. Further, a property manager or salesperson has a great deal of trust invested in them by their lessor/landlord or seller and it could be argued that a person who isn't yet an adult should not be handed the responsibility for representing property potentially worth millions of dollars or someone's entire retirement savings.

Table ES4 of the RIS indicates that the proposal to reduce personal probity requirements (when grouped with removing experience requirements and remaining advertising requirements) offers a net impact for the nation of \$1.04m.

Table 4.31 (on page 79 of the RIS) estimates that in Victoria reducing probity requirements will have an NPV over 10 years of only \$.02m.

As *The Age* indicated in an editorial dated 25 September 2012, this is hardly the case where this cost saving offers any benefit to the community. Refer to **Attachment 8**.

#### → RECOMMENDATION

*REIA recommends that the decision to reduce personal probity requirements should be rejected.*

### CONCERN 3: REMOVAL OF NON-RESIDENTIAL OR COMMERCIAL PROPERTY FROM NATIONAL LICENSING

Pages 26 – 27 of the RIS say:

*Non-residential property work currently forms part of the regulated work of a real estate agent in all jurisdictions, although some deregulation has occurred. Non-residential property is defined as property that is used primarily for the purposes of industry, commerce or primary production. However, it is proposed that this area of work not be licensed. It was found that this sector does not fit comfortably within the usual consumer protection framework that underpins licensing of property occupations. The assessment of the risks involved in non-residential property transactions identified that there are few complaints to consumer protection agencies in relation to these transactions as most parties are sophisticated consumers who are familiar with working in the industrial, commercial or primary production environment and able to seek redress through legal action in relation to the contractual issues involved. For some time the Shopping Centre Council of Australia has held the view that large non-residential property owners do not need consumer protection.*

*The risks in the non-residential property market appear to differ from those in the residential market:*

- *While non-residential transactions may in some instances be infrequent, on the whole, sellers and purchasers tend to be business people operating in a business environment.*
- *There are laws that provide protection for some aspects of the industrial, commercial or primary production market (e.g. retail tenancies legislation).*

*Some members of the advisory committee considered that licensing should be retained for the 'low end' of non-residential property transactions and proposed an exemption from licensing based on the concept of a sophisticated consumer operating at the 'high end'.*

*However, the advisory committee found it difficult to clearly define the cut-off point (either as a dollar figure or by description of parameters) for a sophisticated consumer. In addition, no evidence or data was identified pointing to risks at the lower end for the non-residential sector. If non-residential property work were to be included in the regulated work of a real estate agent under national licensing, the advisory committee proposed that there should be an exemption for transactions between related entities, when the agent and vendor are related. It was noted that there may be complexity in developing a definition for the regulations.*

The Government presenters have echoed the view of the Steering Committee at the Information Sessions around the country in saying that commercial work did not require regulation as vendors and purchasers were 'sophisticated consumers' and so therefore did not need consumer protection. They did not appear to be aware that the majority of sales of commercial property were often no more than the median house price.

In the Canberra Information Session, for example, they appeared surprised to learn that the majority of Victorian commercial property sales were worth less than \$1m.

The Government presenters admitted that the economic regulators, who are currently making decisions on these regulations, used the issue of determining a figure for purchases over which consumer protection laws did not apply (such as \$100m) as a reason to remove *all* consumer protection. They nevertheless admitted that 'mum and dad' investors who invest in commercial property, either directly or through self managed superannuation funds, aren't 'sophisticated' and should still receive the advantage of services from a licensed agent. Every 'high street' or local shopping centre has a myriad of small businesses whose operators need to lease or buy their premises.

As REINT representatives explained at the Darwin Information Session that if the reforms went ahead a family fish and chip shop owner, for example, wanting to dispose of the premises could use anyone to assist them. In the absence of a licensing regime for commercial sales that provides the information to the consumer as to who has the appropriate qualifications and insurance coverage to handle such a complex one-off transaction, the fish and chip shop owner would find it hard to find the information necessary to select a suitably qualified professional.

This bridging of the information gap through the licensing mechanism means that an 'at risk' consumer is protected and the overall market operates more efficiently.

The hypothesis that just because some property market participants are as big as Westfield means that therefore all consumer protection laws currently in existence should be removed is fallacious.

#### **Distribution of Commercial Property Sales**

It is disappointing that the Steering Committee did not consider the available information on sales of commercial property.

RP Data has provided REIA with the following national statistics for commercial sales for the 12 month period ending 30 June 2012 which show that just under 70% of sales for commercial property are less than \$1m and that 45% are less than \$500,000.

*Commercial property data for year ending June 2012*

Percentage in each price category	AUSTRALIA	NSW	VIC	QLD	SA	WA	TAS	NT	ACT
Less than \$500k	44.9	46.0	31.1	28.7	47.8	44.1	50.0	56.0	45.0
\$500k-\$1m	23.9	23.4	28.6	28.4	27.4	23.9	16.7	24.0	20.1
Over \$1m	31.2	30.6	40.3	42.9	24.8	32.0	33.3	20.0	34.9
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Under the RIS proposal properties for the purpose of primary production, or commercial farms, would also be deregulated. Information for farms sold in Victoria indicates that most sold for less than \$500,000, as illustrated in this table:

Price	Regional Farm	Proportion
<\$500,000	2128	76%
\$500,000 - \$1m	590	21%
\$1m - \$5m	72	3%
>\$5m	0	0%
Total	2790	100%

Similarly in WA in 2009/2010, 75% of sales of rural property were below \$500,000 and a further 16% between \$500,000 and \$1m.

It is also noted that the 2008 NSW Office of Fair Trading *Review of the Property, Stock and Business Agents Act 2002* said:

*Research commissioned by Fair Trading in 2007 and undertaken by The Strategy Partnership reaffirmed the fact that consumers undertake relatively few property transactions and are vulnerable due to their inexperience and lack of information about property transactions and the property market.*

*Broadly speaking the research indicated that consumers generally conveyed extremely low levels of awareness of their rights and responsibilities in regard to real estate trading. Nonetheless, they reported quite positive experiences overall.*

*This would appear to suggest a continuing need for legislation to establish requirements for regulation and standards of behaviour. Consumers would not have the knowledge to negotiate appropriate standards of behaviour on their own. The fact that overall consumer experiences appear to be reasonably satisfactory could be said to indicate that the legislation provides a basic safety net which appears to be generally working well.*<sup>18</sup>

On the basis of this evidence, given the information asymmetry rationale justifying agents licensing, it is appropriate that consumers know that in using a licensed agent in a commercial transaction they have the consumer protections inherent in the operation of a licensing scheme.

As REIA understands the counterfactual argument, it remains open for a law of a jurisdiction for non-licensed people who choose to sell commercial property on behalf

of vendors to maintain trust funds, contribute (where established) to statutory defalcation funds take out suitable insurance etc. REIA respectfully suggests that this is erroneous thinking. Although a defaulting non-licensed person may have breached a 'conduct' law from the consumer perspective, the horse has already bolted – they could have suffered a loss that cannot be recouped.

**When are Premises 'Primarily' Used for Something?**

The actual use of a property presents a further problem and possibly total confusion. Zoning that local councils apply will add to further confusion.

Item 1 of Schedule 4 to the Occupational Licensing National Law Amendment Bill circulated in draft form proposes to define 'residential real property' for licensing purposes as meaning:

*Real property that is used, or is intended to be used, for residential purposes and does not include real property that is used primarily for the purposes of industry, commerce or primary production.*

The 'primary purpose' test can be a factually difficult one to determine. Consider the sale of a farm. The sale of a property primarily used for residential purposes requires involvement of a licensed agent. However a farm primarily used for 'primary production' does not.

Now, would the self-described 'hobby farm' be regarded as primarily used as a residence or as a commercial operation? The answer would be 'sometimes' or 'it depends'.

Establishing as a threshold for whether someone needs a licence on the basis of whether something is 'primarily' used for a particular purpose is poor statutory design because of the inherent uncertainty of whether, in this case, a particular property falls on one side or another of the 'primary use' test.

People shouldn't need a lawyer to determine whether a sale should be in the hands of a qualified real estate agent or an unqualified person.

**→ RECOMMENDATION**

*Item 1 of Schedule 4 to the Occupational Licensing National Law Amendment Bill circulated in draft form be amended to:*

- Remove the word 'residential' in the definition of 'real estate work'; and*
- Remove the definition of 'residential real property'.*



### **Professional Indemnity Insurance**

Another issue that was not considered in the RIS proposal is the availability of Professional Indemnity Insurance for those undertaking commercial property transactions. It became apparent as the Information Sessions progressed around Australia that there is a genuine concern that insurers would withdraw from offering non-residential professional indemnity insurance (carried as a matter of course by real estate agents) if non-licensed people were able to assist in the sale of commercial property. This is because of the inherent risk involved in allowing non-qualified people to become involved in such sales.

Aon Australia, a leading provider of professional indemnity insurance, told the *Courier Mail* that leaving the commercial sector unlicensed risked agents' ability to obtain professional indemnity insurance, creating significant financial exposure for consumers and businesses.<sup>19</sup>

It follows that this is a concern that should have been considered and quantified. The failure to consider this cost to business weakens the ability of the RIS to be used as the basis to fundamentally change Australian real estate licensing laws.

### **Maximum Change, Minimum Benefit**

It is worth revisiting the claimed annual benefits set out in Table 4.13 of the RIS flowing from the removal of commercial property from the scope of an agent's licence: NSW - \$0.91m; Victoria - \$0.62m; Queensland - \$0.66m; WA - \$0.03m; SA - \$0.06m; Tasmania - \$0.0001m; ACT - \$0.08m and; NT - \$0.02m. It should be noted these are expressed as benefits to licensees and not the consumer.

REIA believes this limited benefit is insufficient for any reasonable person to argue that the removal of commercial property from the scope of real estate licensing offers a net benefit to the community.

For these reasons REIA believes commercial property work should be licensed at a Diploma level with commercial agents able to select electives related to commercial property in an agent's licence.

### **→ RECOMMENDATION**

*REIA recommends that the proposed Occupational Licensing (Property-Related Occupations) National Regulations be amended so the qualification for a Commercial Real Estate Agent is CPP50307 Diploma of Property Services (Agency Management) (Details as contained in Attachment 9).*

## **CONCERN 4: REMOVAL OF CONTINUED PROFESSIONAL DEVELOPMENT (CPD) FROM NATIONAL LICENSING**

Pages 40-41 of the RIS say:

*However, during the policy development process, the majority of advisory committee members did not support skills maintenance as a licensing eligibility requirement, particularly for renewal of licences. While there was strong support for the concept of skills maintenance, it was recognised that the training required would not always be aimed at addressing consumer risk and that in such instances it would be an additional unwarranted burden on all licensees. This view was supported by evidence of how such requirements had been applied over time in jurisdictions where skills maintenance is currently mandatory. It was also noted that there can be significant ongoing costs to both practitioners and regulators if skills maintenance is compulsory.*

*The regulation of the wider behaviours and standards to be met by licensees ('conduct requirements') following the attainment of a licence is not within the scope of this reform. Licensees will be responsible for ensuring that they are aware of any relevant changes to jurisdictional legislation or requirements.*

### **CPD is Required for the Same Reason as for Other Professionals in a Position of Trust**

REIA believes that CPD is required for the real estate profession for the same reasons as other professionals in a position of trust. REIA believes CPD is a threshold licensing condition.

The reason is much the same as why CPD is mandatory for professions ranging from lawyers to accountants. It is important for professionals in a position of trust to keep abreast of changes in legislation affecting the profession.

Given that agents are entrusted to either sell or manage the biggest investment many consumers will make, it is necessary to ensure that those with that type of responsibility undertake compulsory professional development which is in line with other comparable professions.

<sup>19</sup> *Courier Mail* (Qld) *Insurer wary of licence reform* 28 September 2012 p.84

Most recently, it is noted that financial planners must undertake some form of mandatory CPD if they wish to remain licensed.<sup>20</sup>

It is important that there is a mechanism in place to ensure agents retain their knowledge base particularly in the case where, as the RIS suggests, there will be improved national mobility. Even if national licensing commences, there will still be: different 'conduct' laws in different jurisdictions; specific laws relating to property that are relevant to selling or managing rental properties (such as different laws relating to smoke alarms in residential premises) that will apply in different states and territories and; different national laws that will change from time to time that will affect an agent (such as the Australian Consumer Law).

### ***CPD as a Conduit to Provide a Mobile Workforce with Up to Date Information***

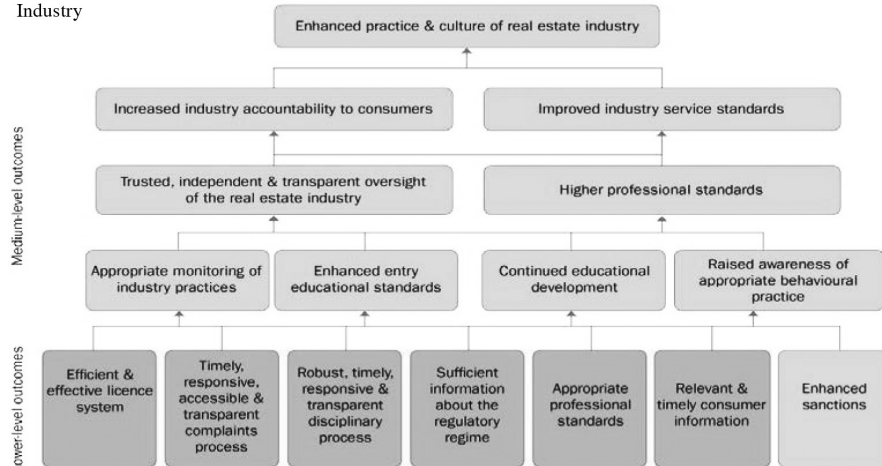
Jurisdiction specific issues and obligations will still continue to arise that a licensed real estate professional will need to know about. Developing a culture of continued professional development would encourage those moving from state to state to use their CPD requirements to determine what laws are in force in the non-resident jurisdiction.<sup>21</sup>

Using CPD as a manner of communicating these sorts of changes is a reason why a number of jurisdictions comparable to Australia make the practice mandatory.

### ***Benchmarking Australia Against Comparable Jurisdictions***

The Real Estate Agents Authority of New Zealand (the REAA) published its *Statement of Intent 2010-2013* in 2010. This is the document that sets out for the government stakeholders who 'own' the Authority what the Authority proposes to do to give effect to its statutory mission. Page 17 sets out what the Authority calls the 'industry perspective of the outcomes model', as follows:

#### Industry



#### WHAT WE ARE TRYING TO ACHIEVE - INDUSTRY

Ultimately it is through the enhanced practice and culture of the real estate industry that the high-level consumer outcomes – the Authority's purpose statement, will be achieved. The connection between this industry outcome and the purpose is presented in Figure 1 at the beginning of the Operating Intentions section.

To achieve enhanced practice and culture of the real estate industry a number of other intermediate outcomes (presented in Figure 3) must be achieved, including:

- increased industry accountability to consumers
- improved industry service standards.

In turn these are affected by trusted independent and transparent oversight of the real estate industry and higher professional standards, which in turn are affected by relatively lower-level outcomes:

- raised awareness of appropriate behavioural practice
- continued educational development
- enhanced entry educational standards
- appropriate monitoring of industry practices.

The New Zealand approach is one that REIA believes will lead to the highest level of professionalism in Australia.

To that extent, it is noted that CPD forms an integral part of this approach. REAA has indicated to the REIA that 'continuing education is an important part of supporting the professionalisation of the real estate industry. Continuing education is focussed on ensuring that, as professionals, real estate agents continue to learn throughout their career and continue to upskill and develop as individuals. Continuing education can also be a valuable touch point for regulators to help ensure that licensees who either

<sup>20</sup> <http://www.asic.gov.au/asic/asic.nsf/byheadline/Getting+a+credit+licence?openDocument> accessed 15 September 2012. See also <http://www.cpaaustralia.com.au/cps/rde/xchg/cpa-site/hs.xml/knowledge-financial-policy-become-financial-planner.html> and [http://www.asic.gov.au/asic/pdf/lib.nsf/LookupByFileName/rg146-published-26-September-2012.pdf/\\$file/rg146-published-26-September-2012.pdf](http://www.asic.gov.au/asic/pdf/lib.nsf/LookupByFileName/rg146-published-26-September-2012.pdf/$file/rg146-published-26-September-2012.pdf) accessed 30 September 2012

<sup>21</sup> In Tasmania, the Regulator requires new agents from other jurisdictions to undergo a CPD course on the contents of the *Property Agents and Land Transactions Act* which establishes the conduct requirements in force in the State. This includes knowledge of the State's Property Agents Trust and Guarantee

want to comply or need help to comply are given adequate opportunities to refresh their knowledge of their legal and compliance obligations’.

Section 15 of the *Real Estate Agents Act 2008* (NZ) allows the REAA to make practice rules to require the continuing education of licensed people. A new practice rule came into effect on 1 January 2012 requiring licensees to complete a set amount of continuing education each year. All licensees will need to show that they completed the training requirements in order to renew their licence in the following year. The continuing education has two parts:

1. Ten hours of verifiable training: this training is in relation to complying with the Act, Regulations and Rules and the topic for each year will be laid out by the REAA. This training must be delivered by an approved provider.
2. Ten hours of non-verifiable training: this training includes most areas of professional development including conferences, in-house training and other industry based learning.

REIA is aware that both the New Zealand real estate industry and regulator are closely examining the developments in Australia to ensure that this process does not lead to real estate agents possessing standards vastly inferior to those in force in New Zealand. In this context it is worth considering page 16 of the RIS which says:

*It should be noted that there will still be a need for mutual recognition of licences for occupations that are not covered under national licensing and there will also be the need to continue to recognise property licences from New Zealand under the Trans-Tasman Mutual Recognition Arrangements.*

Post licensing continuing education is also standard in the USA. **Attachment 10** contains a table prepared by the California Association of Realtors which details CPD requirements in that country.

Singapore also has a mandatory scheme of continuing professional development for the real estate profession the details of which are in **Attachment 11**.

It is evident that the undertaking of CPD is consistent with best practice adopted by jurisdictions against which Australia typically benchmarks itself against. They must do it for a reason. REIA believes that it is because CPD offers the best way to ensure that a licensed person’s knowledge base remains current.

### **Australian Experience with Mandatory CPD**

Western Australia provides a good case study of the impact of mandated CPD. In Western Australia mandatory CPD was introduced for licensees in 2007 and for sales representatives in 2009. As indicated in the following table for the five years up until and including 2009 the average number of written concerns raised by the public to the Real Estate Institute of Western Australia (REIWA) was 143 per annum with a high of 196 in 2009. In 2010, the year immediately after mandatory CPD was introduced for sales representatives, the number of written concerns dropped to 58 – a 70% reduction over the previous year. The average for the three years to 2012 has been 55 – or a 61% reduction from the five years 2005 to 2009.

	2012	2011	2010	2009	2008	2007	2006	2005
Concerns & Enquiries Raised by the Public (written submissions)	13	13	20	37	46	28	28	42
Property Management: Concerns Raised by Tenant	9	17	11	96	61	23	20	23
Property Management: Concerns raised by Owner		8	5	8				
Property Management: Neighbour concerns	15	8	9	24	18	24	21	35
Sales: Concerns raised by Buyer	9	11	11	22	28	27	30	36

<b>Sales: Concerns raised by Seller</b>								
Junk Mail Advertising		1		7	10	1	7	
Strata Concerns					1	4	2	
Sale of a Business	2		2					4
Professional Conduct								
Total concerns and enquiries raised by the public	50	58	58	196	164	109	108	140

The progressive reduction in complaints is an indication of the consumer benefits of mandatory CPD. Further, there has been a reduction in all categories of complaints strongly indicating that the consumer benefits of mandatory CPD are across the spectrum of real estate activities.

The ACT experience provides further evidence of the consumer benefits of mandatory CPD. REIA understands from discussions with officers involved in the regulation of the real estate industry in the ACT that industry standards have improved since the commencement of CPD in that jurisdiction.

It was apparent at the Canberra Information Session that the CPD debate was largely driven from a NSW perspective on experiences of CPD training in other first tranche occupations. According to information provided by NOLA representatives at that session, in NSW the common view of those in vocational occupations in the first tranche of licensing reform was that whilst people thought CPD was originally a good idea, after the second year people were doing 'the same things' and so didn't want to do the courses. As there was no necessary 'nexus' between CPD and licence eligibility, the view was formed that mandatory CPD is to be removed.

It was also suggested at the Canberra Information Session that if CPD was no longer mandated that some would continue to undertake it for 'marketing purposes'. There was no real answer as to why, if that's the case, financial services, lawyers and health professions have CPD. CPD is not undertaken for 'marketing purposes' but to ensure that skills and knowledge are maintained and upgraded to take into consideration new regulatory requirements and responsibilities.

### **Quality of Training**

Another issue raised by government presenters, including NOLA, at the Information Sessions was the poor quality of training, particularly people receiving self-paced e-learning. The response from presenters was that training quality needed to go to 'another space' (another regulator). NOLA and the Australian Skills Quality Authority (ASQA) will need to 'march together' to improve education quality.

The concern about the quality of training is shared by industry participants as illustrated in this response from an agent to REINT:

*Thank you for the effort in pursuing this matter with the vigor you have so far.*

*As a real estate licence holder who obtained my licence in the late 90's when the requirements were full semesters at University, I agree with your stance 100%.*

*A number of my colleagues have gone interstate to obtain a real estate licence in just three to four days - and in time these people may well open their own business with absolutely no grasp on what is required to run a business with the correct compliance to the Agents Licensing Act and other relevant legislation.*

*Under mutual recognition there is an obligation to accept these sham qualifications and allow that licence holder to practice here.*

*I understand that one of the purposes of the proposed changes is to level out the playing field and have national standards.*

*It should not be by lowering the requirements or what is achieved by it.*

*You might as well leave the current inequitable system in place and not bother about changing anything. The result will be much the same.*

*I am not sure if you saw the program on 7.30 Report on Monday evening which was focused on the security industry, where exactly the above scenario was outlined.*

*Please view it if you did not get the chance to see it live.*

*One of the things that the Government is maybe missing in reducing the requirements for licences is that we as real estate agents hold a lot of OPM (other Peoples Money).*

*Our agency is nowhere near the largest in town but we currently hold between \$2.3 – 2.5 Million in various trust accounts on behalf of our tenants, owners and purchasers.*

*In lowering the standards there is a temptation for a "less than scrupulous agent" to access these funds and abscond.*

*With any system where entry level is low the "low" find their way in and that is where the problems start.*

*I strongly object to any reduction in requirements for real estate qualifications and would like the government to rethink this whole scenario.*

*Continue to take this fight to the Government with my absolute support.*

If the quality of what is provided as CPD (or, for that matter, training courses for qualifications) by service providers it can be dealt with by the Advisory Committee established under NOLA in the same manner as occurs under the National Registration and Accreditation Scheme of Health.

The evidence of:

- a reduction of complaints in WA;
- the opinion of improved agent quality held by regulators where CPD is mandatory; and
- international experience;

leads to a conclusion that mandatory CPD offers a public benefit and should form part of the licensing regime.

### **→ RECOMMENDATION**

*REIA recommends that Continued Professional Development (CPD) should be mandatory for all licence categories. The content of CPD and, if necessary, who should provide the content, should be decided by the Licensing Authority.*

## CONCLUSION

REIA reiterates its support for national licensing. However, it is adamant that it believes in neither national licensing for its own sake nor the dumbing down of the profession.

More generally, concerns about the direction of national licensing reform have also been expressed by organisations in the first and second tranche of national licensing including the Australian Institute of Building, the Australian Institute of Conveyancers, the Australian Livestock and Property Agents Association, RICS Oceania and the Council of Small Business Australia (COSBOA) (**Attachment 12**).

This is also the view of the Australian community, as reflected in an independent survey and in recent media articles.

REIA believes the Australian consumer is best served by a property industry licensing structure along the lines in place in New Zealand. This means that for a person to be able to offer themselves as a licensed person, it is a 'threshold' issue that they have both the skills to provide services to consumers as well as a requirement to keep their skills current.

In reality, licensing eligibility and conduct really do go together. They are the obverse and reverse of the same coin. It is quite artificial to separate the two concepts. It is thus unfortunate that the Conduct Harmonisation Working Group (CHWG) established to discuss the state regulators' operational requirement proposals in anticipation of national licensing has not met since July 2011 leaving many important areas still to be resolved, including right to commissions, agency agreements, standards of behaviour and appointment of receivers and managers. This process needs to be revived promptly:

- so that national licensing reform can be developed in a holistic manner, licensing; and
- 'conduct' matters should be developed together by the element of government with expertise in the development and implementation of consumer protection regulation.

### → RECOMMENDATION

*REIA therefore recommends the Legislative and Governance Forum on Consumer Affairs should be recognised as the relevant Ministerial Council for the purposes of developing regulations for the property industry, with a view of developing an licensing model similar to that operating in New Zealand.*

In this way, Australia will have a world's best practice national licensing scheme for the real estate profession that provides for the efficient functioning of the Australian property market and ensures that Australian consumers are served by appropriately qualified industry participants.

The reality is that there is much to be achieved before national licensing for the real estate profession can be introduced to the satisfaction of all stakeholders - consumers, all governments and the profession.

### → RECOMMENDATION

*REIA recommends that the real estate profession be moved to the second tranche of national licensing.*

Moving the real estate profession to the second tranche of national licensing provides for a natural fit with the other property professionals. It also provides the opportunity to give due consideration to the matters raised by REIA in this submission, including examining a range of options in relation to the licensing of commercial agents operating at the 'top end' of the market.

**Real Estate Institute of Australia, October 2012**



## ATTACHMENTS

### ATTACHMENT 1

#### LETTER OF ENDORSEMENT FROM REIs

11 October 2012

COAG National Licensing Taskforce  
Department of Industry, Innovation, Science, Research and Tertiary Education  
GPO Box 9839  
16 Mort Street  
Canberra City ACT 2601

We, the under signed, represent the Real Estate Institute of Australia's members and fully support and endorse the Submission "*Response to the Consultation Regulation Impact Statement For Proposal For National Licensing For Property Occupations*".

Our state and territory Real Estate Institutes have been fully involved in the development of the Submission – determining a joint position, providing input and reviewing the content of the Submission.



Michael Kumm  
President

**Real Estate Institute of the ACT**



Morgan Shearer  
President

**Real Estate Institute of Northern Territory**



Pamela Bennett  
President

**Real Estate Institute of Queensland**



Greg Moulton  
President

**Real Estate Institute of South Australia**



Adrian Kelly  
President

**Real Estate Institute of Tasmania**



Trevor Booth  
President

**Real Estate Institute of Victoria**



David Airey  
President

**Real Estate Institute of Western Australia**

**ATTACHMENT 2**

UMR RESEARCH CONDUCTED SEPTEMBER 2012

**Real Estate Agents**

September 2012

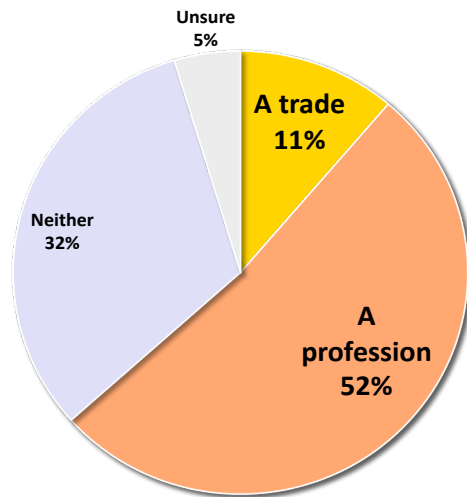
**UMR**  
RESEARCHUMR Contact Details:  
Level 1, Suite 105, 332-342 Oxford Street,  
Bondi Junction NSW 2022 Australia  
Phone: (02) 9386 1622  
[www.umar.com.au](http://www.umar.com.au)**Methodology****UMR**  
RESEARCH

- 1,000 interviews
- Nationally representative sample interviewed online
- Age: 18+
- Fieldwork: 21-26 September 2012
- Data is weighted and matched with ABS census data to ensure a nationally representative sample
- Online panel members are primarily recruited offline and by invitation only ruling out self-selection issues associated with online methodologies
- Maximum margin of error at 95% confidence level:  $\pm 3.1\%$  (n=1000)

# Most consider real estate a profession



*Do you consider a real estate agent to be a member of...*



Base: All

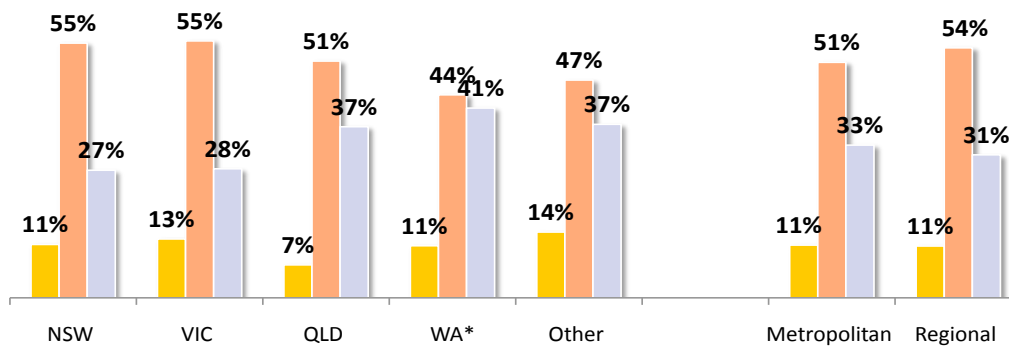
3

# By geography



*Do you consider a real estate agent to be a member of...*

■ A trade ■ A profession ■ Neither



Base: All; \*caution: small base

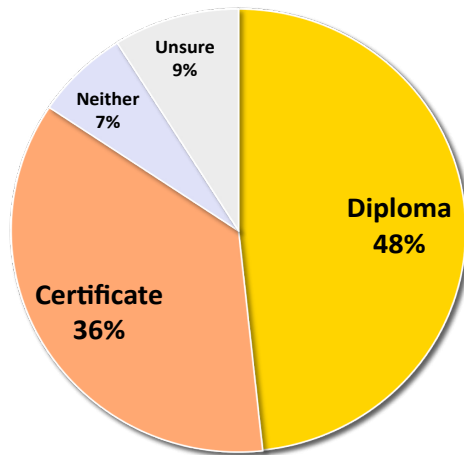
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# A diploma should be required



Currently in four states/territories, licensed agents are required to have a diploma whilst the other states have a requirement for a certificate level qualification.  
The Government is proposing that all states should have the lower certificate level qualification.

Do you think a real estate agent should be qualified at diploma or certificate level?



Base: All

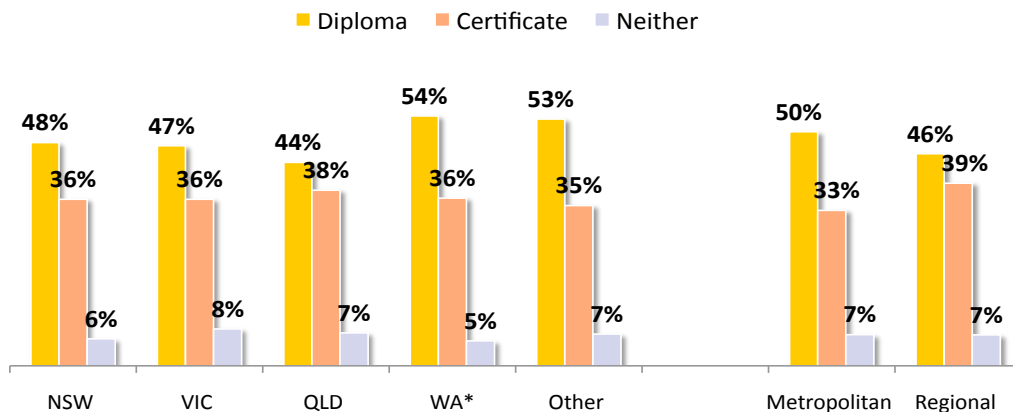
5

# By geography



Currently in four states/territories, licensed agents are required to have a diploma whilst the other states have a requirement for a certificate level qualification.  
The Government is proposing that all states should have the lower certificate level qualification.

Do you think a real estate agent should be qualified at diploma or certificate level?



Base: All; \*caution: small base

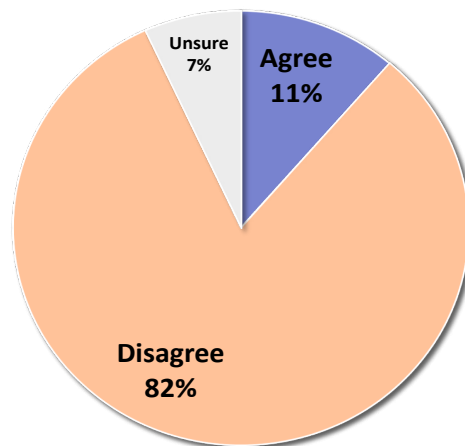
6

## RE agents should be made to keep up with developments



The Federal Government is proposing that there be no requirement for real estate agents to keep themselves informed of changes to laws or undertake any professional development programs after commencing work.

Do you agree or disagree with this position?



Base: All

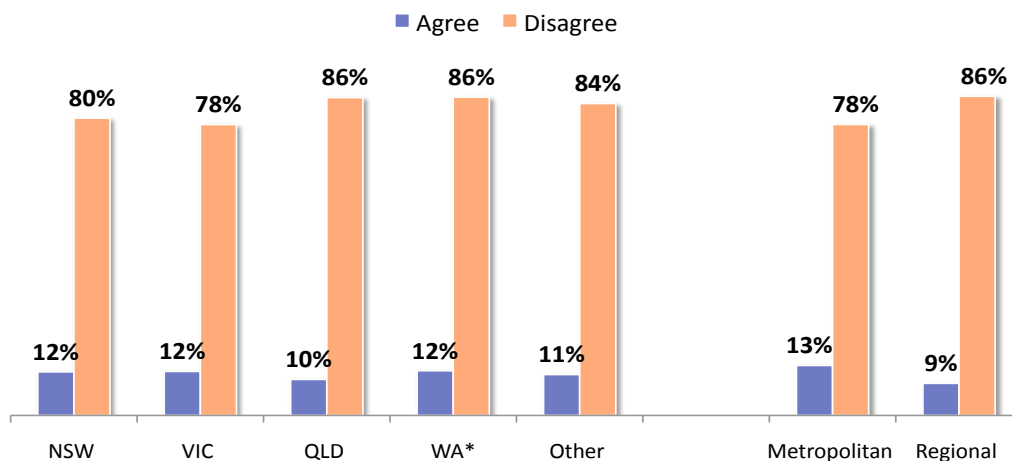
7

## By geography



The Federal Government is proposing that there be no requirement for real estate agents to keep themselves informed of changes to laws or undertake any professional development programs after commencing work.

Do you agree or disagree with this position?



Base: All; \*caution: small base

8

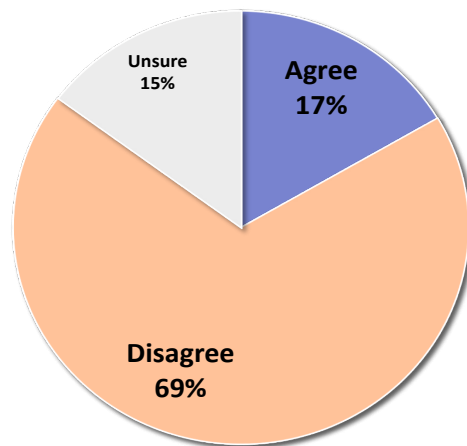


# Selling commercial properties should require a licence



The Federal Government proposes to remove the current requirement for commercial properties to be sold and leased by agents who are licensed.

Do you agree or disagree with this position?



Base: All

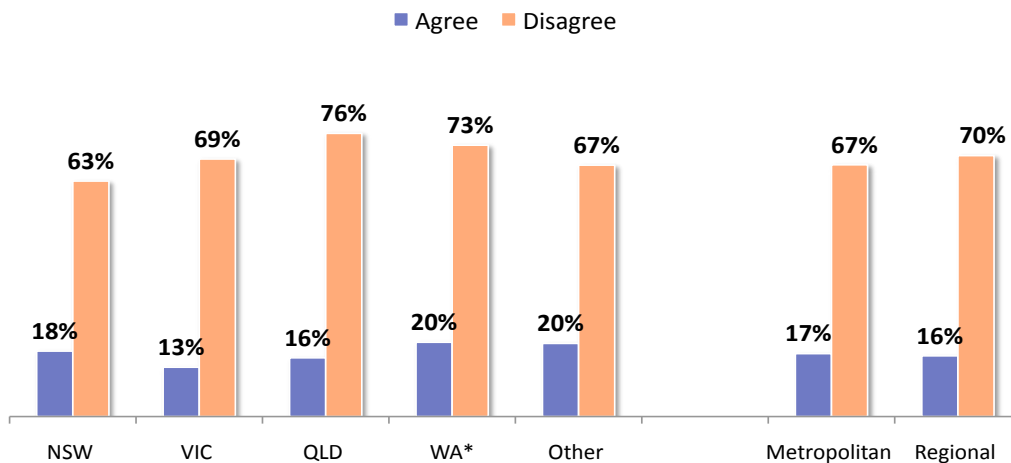
9

# By geography



The Federal Government proposes to remove the current requirement for commercial properties to be sold and leased by agents who are licensed.

Do you agree or disagree with this position?



Base: All; \*caution: small base

10

## About UMR



### Australia's Leading Research and Issues Management Company

UMR is the company of choice for leaders and decision-makers, because we turn high quality information into useful hard-headed strategic advice. UMR has provided significant insights, advice and campaign management to decision-makers who have brought about major change in Australia and New Zealand for Governments and business.

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We have over 20 years experience developing a deep understanding of the views and opinions of Australians and New Zealanders. Our team of expert researchers are seasoned professionals who combine extensive experience with a deep understanding of the public mindset.

**Contact:**

Level 1, Suite 105 ● 332-342 Oxford Street ● Sydney NSW 2022 ● AUSTRALIA

Tel: +61 2 9386 1622 ● Fax: +61 2 9386 1633 ● Email: [reception@umr.com.au](mailto:reception@umr.com.au)

**ATTACHMENT 3****MEDIA REPORTS ON THE RIS PROPOSALS FOR NATIONAL LICENSING  
FOR PROPERTY OCCUPATIONS**

- 10/09/12 Real Estate Business
- 11/09/12 5AA Morning Show
- 14/09/12 Real Estate Business
- 19/09/12 International News Magazine
- 19/09/12 Property Observer
- 20/09/12 Real Estate Business
- 22/09/12 Australian Financial Review
- 24/09/12 TV4ME National
- 25/09/12 The Age
- 25/09/12 Adelaide Now
- 26/09/12 Real Estate Business
- 26/09/12 Australian Financial Review
- 02/10/12 Real Estate Business
- w/c 02/10/12 Business Spectator
- 11/10/12 Australian Financial Review

Twitter activity throughout

## ATTACHMENT 4

### ERRORS IN RIS AS IDENTIFIED BY REIA AND MEMBER INSTITUTES

**Page 27** – Reference to the “advisory committee found it difficult to clearly define the cut-off point” is incorrect. The Chair of the advisory committee accepted that there should be a cut-off and asked that consideration of that level be deferred. The regulators Working Group subsequently agreed to the deregulation of commercial property without further reference to the advisory committee. The COAG Taskforce has acknowledged that this is the case in the Information Sessions. However, it still remains the case that this incorrect reporting has contributed to the proposal to deregulate commercial property transactions.

**Page 40** – Indicates that Queensland currently requires a ‘skill set comprising three or four units’ for an agent’s representative. Queensland currently requires seven units.

**Page 44** – The Impact Analysis indicates that one of the assumptions in calculating the transition costs is that it will take existing licensees 45 minutes to understand the proposed changes. This is a gross underestimation and reflects a lack of understanding of the real estate profession and the operational structures involved in communicating such changes. Information to REIA suggests that the actual time taken would be around half a day. Suggesting that the transitional cost is likely to be around \$35m and not the RIS’s estimate of \$4.5m.

**Page 121** - Figures for time associated with continuous professional development requirements for NSW are wrong. RIS suggests that it is 7.5 hours in NSW when it is 4 hours where it is undertaken by a Registered Training Organisation (RTO). This reduces the estimate of cost savings in NSW by 47% from \$25.6m to \$13.7m thus removing nearly \$12m from the \$79m savings in the RIS proposal.

**Page 165** – States that Queensland requires a Certificate IV for an agent’s representative. Queensland requires seven units for an agent’s representative.

**Page 111** – States that there are 21,742 registered sales representatives and licensed agents in Western Australia. The actual number is around 11,000. The consequence is that all the expected benefits to Western Australia reported in the RIS – and subsequently for Australia – are double what the estimate should be. All components of the total such as the cost of CPD delivery and the cost of licence renewals are similarly double what they should be.

## ATTACHMENT 5

### EDUCATION REQUIREMENTS FOR REAL ESTATE AGENTS

The qualification for a real estate agent's licence should be:  
the successful completion of CPP50307 Diploma of Property Services (Agency Management) including the following units of competency from the training package known as CPP07 Property Services Training Package delivered and assessed by a registered training organisation—

Unit code	Unit title
CPPDSM4080A	Work in the Real Estate Industry
CPPDSM4008A	Identify Legal and Ethical Requirements of Property Sales
CPPDMS4007A	Identify Legal and Ethical Requirements of Property Management
CPPDSM4009B	Interpret Legislation to Complete Agency Work
CPPDSM4015A	Minimise Consumer & Agency Risk
CPPDSM4006A	Establish and manage agency trust accounts
CPPDSM5009A	Coordinate Risk Management in the Property Industry
BSBMGT515A	Manage Operation Plan
BSBFIM501A	Manage Budgets and Financial Plans
BSBHRM402A	Recruit, Select and Induct Staff
BSBMGT502B	Manage People Performance
CPPDSM5032A	Market the Agency
CPPDSM5012	Develop a strategic business plan in the real estate industry
CPPDSM4005A	Establish and Build Client Agency Relationships
CPPDSM4010A	Lease Property
CPPDSM4079A	Working the Business Broking Industry
CPPDSM4003A	Appraise Property
CPPDSM4012A	List Property for Sale
CPPDSM4011A	List Property for Lease
CPPDSM4013A	Market Property for Lease
CPPDMS4014A	Market Property for Sale
CPPDSM4016A	Monitor and Manage Lease or Tenancy Agreement
CPPDSM4020A	Present at Tribunals
CPPDMS4018A	Prepare and Present Property Reports
CPPDSM4022A	Sell and Finalise the Sale of Property by Private Treaty
CPPDSM4019A	Prepare for Auctions and Complete Sale



**ATTACHMENT 6****EDUCATION REQUIREMENTS FOR AGENT'S REPRESENTATIVE**

The qualification for an agent's representative registration should be a statement of attainment for the following units of competency from the training package known as CPP07 Property Services Training Package—

<b>Unit code</b>	<b>Unit title</b>
CPPDSM4080A	Work in the Real Estate Industry
CPPDSM4008A	Identify Legal and Ethical Requirements of Property Sales
CPPDMS4007A	Identify Legal and Ethical Requirements of Property Management
CPPDSM4009B	Interpret Legislation to Complete Agency Work
CPPDSM4015A	Minimise Consumer & Agency Risk
CPPDSM4005A	Establish and Build Client Agency Relationships
CPPDSM4010A	Lease Property
CPPDSM4079A	Working the Business Broking Industry
CPPDSM4003A	Appraise Property
CPPDSM4012A	List Property for Sale
CPPDSM4011A	List Property for Lease
CPPDSM4013A	Market Property for Lease
CPPDMS4014A	Market Property for Sale
CPPDSM4016A	Monitor and Manage Lease or Tenancy Agreement
CPPDSM4020A	Present at Tribunals
CPPDMS4018A	Prepare and Present Property Reports
CPPDSM4022A	Sell and Finalise the Sale of Property by Private Treaty
CPPDSM4019A	Prepare for Auctions and Complete Sale

## ATTACHMENT 7

### EDUCATION REQUIREMENTS FOR AUCTIONEERS

The qualification for an auctioneer's licence should be a statement of attainment for the following units of competency from the training package known as CPP07 Property Services Training Package—

Unit code	Unit title
CPPDSM4004A	Conduct auction
CPPDSM4019A	Prepare for Auctions and Complete Sale
CPPDSM4080A	Work in the Real Estate Industry
CPPDSM4008A	Identify Legal and Ethical Requirements of Property Sales
CPPDSM4009B	Interpret Legislation to Complete Agency Work
CPPDSM4015A	Minimise Consumer & Agency Risk
CPPDSM4005A	Establish and Build Client Agency Relationships
CPPDSM4003A	Appraise Property
CPPDSM4012A	List Property for Sale
CPPDMS4014A	Market Property for Sale
CPPDMS4018A	Prepare and Present Property Reports
CPPDSM4022A	Sell and Finalise the Sale of Property by Private Treaty

It should be noted that if an individual has already completed the agent's representative educational qualification, then the educational requirements recommended above represent only one additional unit of study (CPPDSM4004A Conduct Auction).

## ATTACHMENT 8

EDITORIAL, THE AGE, 25 SEPTEMBER 2012

# THE AGE

ESTABLISHED IN 1854

## Do not lower the bar on real estate

**H**OME ownership in this nation is considered so desirable it is known as The Great Australian Dream. It is seen as the crucible of security and the bastion of the family, notions celebrated in one of Australians' favourite films, *17ze Castle*.

So cherished is home ownership that as many as seven in 10 households own or are paying off their homes, one of the highest rates in the industrialised world. Buying a home is by far the biggest financial investment most people will ever make, so it is crucial that they can have confidence the real estate market is fair, transparent and appropriately regulated.

*The Age*, then, believes a proposal by the National Occupational Licensing Authority that jailed drug traffickers and violent criminals no longer be harmed from later becoming real estate agents is flawed and

should not be adopted. The authority is also proposing police checks on auctioneers, property managers and agency sales staff also no longer be required. These suggestions are part of a push to create a national regulatory system for various trades. The rationale is to reduce red tape and facilitate labour mobility. These are laudable claims, but the effect here in Victoria would be to diminish probity standards in the real estate market.

Whilst *The Age* embraces the principle that criminals can and should be rehabilitated, we do hold that there ought to be exceptions. Real estate agents must be seen to be of impeccable character, given the risks home buyers take and the long-term commitment they make.

We agree with the Real Estate Institute of Victoria's robust argument that the proposals would bring undesirable people into the industry and

create undue risks for home owners.

The legislation would be introduced by the Minister for Skills, Senator Chris Evans. A spokeswoman for Senator Evans says the proposals are based on "extensive expert advice from both industry and regulators" and would "bring major benefits for the economy, workers and employers". This seems a curious and unsubstantiated argument that, further, fails to adequately take into account the group whose interests ought to be paramount in this context - home owners.

We urge Victoria's Minister for Consumer Affairs, Michael O'Brien, to take the counsel of the REIV and fight the proposals, which will be finalised later this year. It would be a better idea were the national scheme to raise the probity bar by adopting Victoria's rigorous approach to the licensing of real estate agents.

**ATTACHMENT 9****EDUCATION REQUIREMENTS FOR COMMERCIAL REAL ESTATE AGENTS**

The qualification for a commercial real estate agent's licence should be primarily similar to those for a real estate agent, with three 'electives' allowing for commercial specialisation:

- (a) the successful completion of CPP50307 Diploma of Property Services (Agency Management) including the following units of competency, from the training package known as CPP07 Property Services Training Package delivered and assessed by a registered training organisation—

Unit code	Unit title	Unit code	Unit title
CPPDSM4080A	Work in the Real Estate Industry	CPPDSM4032A	Arrange valuation of facilities and assets
CPPDSM4008A	Identify Legal and Ethical Requirements of Property Sales	CPPDSM4050A	Lease industrial, commercial and retail property
CPPDMS4007A	Identify Legal and Ethical Requirements of Property Management	CPPDSM4079A	Working the Business Broking Industry
CPPDSM4009B	Interpret Legislation to Complete Agency Work	CPPDSM4003A	Appraise Property
CPPDSM4015A	Minimise Consumer & Agency Risk	CPPDSM4012A	List Property for Sale
CPPDSM4006A	Establish and manage agency trust accounts	CPPDSM4011A	List Property for Lease
CPPDSM5009A	Coordinate Risk Management in the Property Industry	CPPDSM4013A	Market Property for Lease
BSBMGT515A	Manage Operation Plan	CPPDMS4014A	Market Property for Sale
BSBFIM501A	Manage Budgets and Financial Plans	CPPDSM4016A	Monitor and Manage Lease or Tenancy Agreement
BSBHRM402A	Recruit, Select and Induct Staff	CPPDSM4020A	Present at Tribunals
BSBMGT502B	Manage People Performance	CPPDMS4018A	Prepare and Present Property Reports
CPPDSM5032A	Market the Agency	CPPDSM4036A	Broker sale of industrial, commercial and retail property
CPPDSM5012	Develop a strategic business plan in the real estate industry	CPPDSM4019A	Prepare for Auctions and Complete Sale

Effectively this means that commercial real estate professionals would not undertake the following units from the real estate agents qualification:

CPPDSM4010A	Lease Property
CPPDSM4022A	Sell and Finalise the Sale of Property by Private Treaty
CPPDSM4005A	Establish and Build Client Agency Relationships

Instead, commercial real estate agents would undertake:

CPPDSM4032A	Arrange valuation of facilities and assets
CPPDSM4050A	Lease industrial, commercial and retail property
CPPDSM4036A	Broker sale of industrial, commercial and retail property

**ATTACHMENT 10****REQUIREMENTS FOR LICENSING OF SALESPERSON AND BROKERS - USA****REQUIREMENTS FOR LICENSING OF SALESPERSONS (SP) AND BROKERS**

STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	<u>SP</u> How many (clock) hours of PRE-license education are required for salespersons?	<u>BROKER</u> How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?	Explanation of pre-licensing requirements/post license requirements where applicable	<u>SP</u> How many (clock) hours of continuing education are required for salespersons?	<u>BROKER</u> How many (clock) hours of continuing education are required for brokers?
California	135 hours of education <ul style="list-style-type: none"> <li>can be waived for licensed attorney</li> </ul>	360 hours of education <ul style="list-style-type: none"> <li>8 college level courses</li> <li>can be waived for licensed attorney</li> </ul> <p><b>AND</b></p> 2 years of experience <ul style="list-style-type: none"> <li>document actual experience</li> <li>can be waived for 2 years general real estate experience or graduation from 4 year college or university course which included specialization in real estate</li> </ul>		45 hours over a 4 year period <ul style="list-style-type: none"> <li>30 hours mandatory real estate topics</li> </ul> Proctor administered exam	45 hours over a 4 year period <ul style="list-style-type: none"> <li>30 hours mandatory real estate topics</li> </ul> Proctor administered exam
Colorado		<u>Associate Broker:</u>	Colorado license law		24 hours in 3 year



STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	<u>SP</u> How many (clock) hours of PRE-license education are required for salespersons?	<u>BROKER</u> How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?	Explanation of pre-licensing requirements/post license requirements where applicable	<u>SP</u> How many (clock) hours of continuing education are required for salespersons?	<u>BROKER</u> How many (clock) hours of continuing education are required for brokers?
		<ul style="list-style-type: none"> <li>168 hours of education; and</li> </ul> <p><b>Independent Broker:</b></p> <ul style="list-style-type: none"> <li>168 hours of education; and</li> <li>2 years licensure at the broker license level</li> </ul> <p><b>Employing Broker:</b></p> <ul style="list-style-type: none"> <li>168 hours of education;</li> <li>24 hours in broker administration; and</li> <li>2 years active licensure at the broker license level</li> </ul> <p>*education requirement can be waived at all levels with college degree with major course of study in real estate</p>	recognizes 3 levels of responsibility and authority for real estate brokers: Associate Broker, Independent Broker and Employing Broker.		licensing period <ul style="list-style-type: none"> <li>8 hours mandatory real estate topics</li> </ul> Exam for mandatory topics only administered by instructor
Delaware	99 hours of education	99 hours of education <b>AND</b>		15 hours every 2 years <ul style="list-style-type: none"> <li>6 hours mandatory real</li> </ul>	15 hours every 2 years <ul style="list-style-type: none"> <li>6 hours</li> </ul>

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STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	<u>SP</u> How many (clock) hours of PRE-license education are required for salespersons?	<u>BROKER</u> How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?	Explanation of pre-licensing requirements/post license requirements where applicable	<u>SP</u> How many (clock) hours of continuing education are required for salespersons?	<u>BROKER</u> How many (clock) hours of continuing education are required for brokers?
		5 years of experience <ul style="list-style-type: none"> <li>Document actual experience</li> <li>30 qualified sales transactions during the 5 years of experience</li> </ul>		estate topics <ul style="list-style-type: none"> <li>If licensed after 1/1/12, there may be additional hour requirements depending on date license was issued</li> </ul>	mandatory real estate topics <ul style="list-style-type: none"> <li>If licensed after 1/1/12, there may be additional hour requirements depending on date license was issued</li> </ul>
Georgia	75 hours of education <ul style="list-style-type: none"> <li>Can be waived upon showing of completion of 10 quarter hours or 6 semester hours of real estate related course work at an accredited college or university</li> </ul>	60 hours of education <ul style="list-style-type: none"> <li>Can be waived upon showing of completion of 15 quarter hours or 9 semester hours of real estate related course work at an accredited college or university</li> </ul>	25 hours of post-license education required within first year	24 hours every 4 years <ul style="list-style-type: none"> <li>All elective</li> </ul>	24 hours every 4 years <ul style="list-style-type: none"> <li>All elective</li> </ul>

3

STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	<u>SP</u> How many (clock) hours of PRE-license education are required for salespersons?	<u>BROKER</u> How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?		<u>SP</u> How many (clock) hours of continuing education are required for salespersons?	<u>BROKER</u> How many (clock) hours of continuing education are required for brokers?
		<u>AND</u> 3 (of the last 5) years of experience <ul style="list-style-type: none"> <li>License held for a specific time</li> </ul>			
Hawaii	60 hours of education <ul style="list-style-type: none"> <li>Can be waived for law degree; bachelor of arts or science degree in real estate or business and other professional designations or certificates</li> </ul>	80 hours of education <ul style="list-style-type: none"> <li>Can be waived for law degree; bachelor of arts or science degree in real estate or business and other professional designations or certificates</li> </ul> <u>AND</u> 3 years of experience <ul style="list-style-type: none"> <li>Document actual experience</li> <li>Can be waived</li> </ul>		20 hours per biennium (effective 1/1/2011) <ul style="list-style-type: none"> <li>5 hours mandatory real estate topics</li> </ul>	20 hours per biennium (effective 1/1/2011) <ul style="list-style-type: none"> <li>5 hours mandatory real estate topics</li> </ul>
Illinois		<u>Broker</u>	No new salesperson		<u>Broker</u>

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STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	<u>SP</u> How many (clock) hours of PRE-license education are required for salespersons?	<u>BROKER</u> How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?		<u>SP</u> How many (clock) hours of continuing education are required for salespersons?	<u>BROKER</u> How many (clock) hours of continuing education are required for brokers?
		<ul style="list-style-type: none"> <li>90 hours of education</li> <li>Education can be waived for licensed attorneys</li> <li>30 hours of post-license broker courses before first renewal</li> </ul> <u>Managing Broker</u> <ul style="list-style-type: none"> <li>Licensed for at least 2 of the preceding 3 years as a salesperson or broker</li> <li>45 hours of education</li> </ul>	licenses issued after 4/30/11.  All existing salesperson licenses terminated on 5/1/2012. There are no transitions from salespersons to brokers after that date.  Illinois now recognizes two levels of brokers—brokers and managing brokers.		<ul style="list-style-type: none"> <li>12 hours every 2 years (6 core/mandatory hours)</li> </ul> <u>Managing Broker</u> <ul style="list-style-type: none"> <li>12 hours of broker CE every 2 years</li> <li>12 hours of managing broker CE every 2 years</li> </ul>
Louisiana	90 hours of education <ul style="list-style-type: none"> <li>Can be waived if comparable college or university real estate courses</li> </ul>	150 hours of education <ul style="list-style-type: none"> <li>Can be waived for comparable college or university real estate courses or</li> </ul>	Post-license requirement for salespersons and brokers : 45 hours of post-license education required within 180 days	12 hours each year <ul style="list-style-type: none"> <li>4 hours of mandatory real estate topics</li> </ul>	12 hours each year <ul style="list-style-type: none"> <li>4 mandatory real estate topics</li> </ul>

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STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	SP How many (clock) hours of PRE-license education are required for salespersons?	BROKER How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?		SP How many (clock) hours of continuing education are required for salespersons?	BROKER How many (clock) hours of continuing education are required for brokers?
		through courses completed through nationally recognized real estate organizations  <b>AND</b> 4 years of experience <ul style="list-style-type: none"> <li>Actively licensed as salesperson in any state/jurisdiction</li> </ul>			
Maine	60 hours of education	105 hours of education  <b>AND</b> 3 years of experience <ul style="list-style-type: none"> <li>License held for a specific time</li> </ul>		21 hours every 2 years <ul style="list-style-type: none"> <li>3 hours of mandatory real estate topics</li> </ul> Exam required for distance education only	21 hours every 2 years <ul style="list-style-type: none"> <li>3 hours of mandatory real estate topics</li> </ul> Exam required for distance education only
Maryland	60 hours of education	135 hours of education  <b>AND</b>		15 hours every 2 years  Exam required for distance education only	15 hours every 2 years  Exam required for

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STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	SP How many (clock) hours of PRE-license education are required for salespersons?	BROKER How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?		SP How many (clock) hours of continuing education are required for salespersons?	BROKER How many (clock) hours of continuing education are required for brokers?
		3 years of experience <ul style="list-style-type: none"> <li>License held for a specific time</li> </ul>			distance education only
Nevada	90 hours of education <ul style="list-style-type: none"> <li>Can be waived for 6 semester units in real estate principles, practices and law from an accredited provider</li> </ul>	Total of 64 college credits, including certain specific courses  <b>OR</b> Up to 8 of the preceding 10 years fulltime experience may be substituted (each 2 years=16 college credits)	30 hours of post-license education required during first year of licensure	24 hours every 2 years for first renewal and every 4 years thereafter <ul style="list-style-type: none"> <li>12 hours of mandatory real estate topics</li> </ul> 30 hours for first year licensees  Exam required only if distance education or more than 7 hours per day of live instruction	24 hours every 2 years for first renewal and every 4 years thereafter <ul style="list-style-type: none"> <li>15 hours of mandatory topics including 3 hours of broker management</li> </ul> Exam required only if distance education or more than 7 hours per day of live instruction
New Hampshire	40 hours of education	60 hours of commission approved education  <b>AND</b>		12 hours every 2 years <ul style="list-style-type: none"> <li>3 hours mandatory real estate topics</li> </ul>	12 hours every 2 years <ul style="list-style-type: none"> <li>3 hours mandatory</li> </ul>

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STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	SP How many (clock) hours of PRE-license education are required for salespersons?	BROKER How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?		SP How many (clock) hours of continuing education are required for salespersons?	BROKER How many (clock) hours of continuing education are required for brokers?
		1 year full time experience or 2000 hours part time experience within 5 years prior to date of application for licensure, or show proof to the commission of equivalent experience		Exam required only for distance education courses	real estate topics  Exam required only for distance education courses
New Jersey	75 hours of education <ul style="list-style-type: none"> <li>Can be waived for broker or salesperson in another state, a disabled veteran, an attorney, have taken college courses in real estate, or have a degree in real estate</li> </ul>	150 hours of education <ul style="list-style-type: none"> <li>Partial waiver available if certain criteria met</li> </ul> <p><b>AND</b></p> 3 years of experience as a salesperson <ul style="list-style-type: none"> <li>Document actual experience</li> </ul>		12 hours every year <ul style="list-style-type: none"> <li>6 hours mandatory real estate topics</li> </ul> <p><b>Law Change</b> CE requirement applies to renewal on or after July 13, 2013</p>	12 hours every year <ul style="list-style-type: none"> <li>6 hours mandatory real estate topics</li> </ul> <p><b>Law Change</b> CE requirement applies to renewal on or after July 13, 2013</p>
Oregon		<b>Broker</b> <ul style="list-style-type: none"> <li>150 hours of education</li> </ul> <p><b>Principal Broker</b></p> <ul style="list-style-type: none"> <li>150 hours of</li> </ul>	30 hours of post-license education required before first active renewal		30 hours every 2 years <ul style="list-style-type: none"> <li>15 hours mandatory real estate topics</li> </ul>

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STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	SP How many (clock) hours of PRE-license education are required for salespersons?	BROKER How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?		SP How many (clock) hours of continuing education are required for salespersons?	BROKER How many (clock) hours of continuing education are required for brokers?
		education  <b>AND</b>  3 years (active) of experience (for principal broker only) <ul style="list-style-type: none"> <li>Can be waived for equivalent experience</li> </ul>			
Pennsylvania	60 hours of education	240 hours of education <ul style="list-style-type: none"> <li>Can be waived for equivalent experience (limited to those set forth in regulations)</li> </ul> <p><b>AND</b></p> 3 years of experience within the past 5 years <ul style="list-style-type: none"> <li>Can be waived for equivalent experience (limited to those set forth in</li> </ul>		14 hours every 2 years <ul style="list-style-type: none"> <li>Salespersons taking CE for the first time are required to complete specific Commission developed courses</li> </ul>	14 hours every 2 years

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STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	<u>SP</u> How many (clock) hours of PRE-license education are required for salespersons?	<u>BROKER</u> How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?	Explanation of pre-licensing requirements/post license requirements where applicable	<u>SP</u> How many (clock) hours of continuing education are required for salespersons?	<u>BROKER</u> How many (clock) hours of continuing education are required for brokers?
South Carolina	60 hours of education <ul style="list-style-type: none"> <li>Can be waived if comparable real estate education (degree in real estate) or law degree</li> </ul>	60 hours of education <ul style="list-style-type: none"> <li>Can be waived if comparable education in real estate or law</li> </ul> <p><b>AND</b></p> 3 years of experience <ul style="list-style-type: none"> <li>License held for a specific time</li> <li>Can be waived</li> </ul>	30 hours of post-license education required within 1 year	8 hours every 2 years <ul style="list-style-type: none"> <li>2 hours mandatory real estate topics</li> </ul>	8 hours every 2 years <ul style="list-style-type: none"> <li>2 hours mandatory real estate topics</li> </ul>
Tennessee		<b>Affiliate Broker</b> <ul style="list-style-type: none"> <li>90 hours of education</li> </ul> <p><b>Broker</b></p> <ul style="list-style-type: none"> <li>120 hours of education</li> </ul> <p><b>AND</b></p> 3 years of experience	120 hours of post-license education required (for brokers only) within 3 years		<b>Affiliate Broker</b> <ul style="list-style-type: none"> <li>16 hours of education</li> <li>Brokers licensed after 1/1/05 have a continuing education obligation in the future</li> </ul>

STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	<u>SP</u> How many (clock) hours of PRE-license education are required for salespersons?	<u>BROKER</u> How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?	Explanation of pre-licensing requirements/post license requirements where applicable	<u>SP</u> How many (clock) hours of continuing education are required for salespersons?	<u>BROKER</u> How many (clock) hours of continuing education are required for brokers?
		<ul style="list-style-type: none"> <li>Document actual experience</li> <li>Only 2 years required if degree in real estate</li> </ul>			Exam required if class longer than 8 hours
Texas	180 hours of education (effective 9/1/12)	270 hours of education in core real estate principles and 630 hours of education in related courses (bachelor's degree or higher is acceptable) <p><b>AND</b></p> 4 years of experience as licensed real estate sales person or broker		15 hours every 2 years <ul style="list-style-type: none"> <li>6 hours mandatory real estate topics</li> </ul> Exam required if distance education	15 hours every 2 years Exam required if distance education
Utah	120 hours of education <ul style="list-style-type: none"> <li>Can be waived if equivalent education taken while completing a college undergraduate or postgraduate degree (regardless of date of</li> </ul>	120 hours of education <p><b>AND</b></p> 3 years of experience <ul style="list-style-type: none"> <li>Document actual experience</li> <li>Can be waived if</li> </ul>	12 hours of post-license education required within 2 years	18 hours every 2 years <ul style="list-style-type: none"> <li>9 hours of mandatory real estate topics</li> <li>All new agents (licensed 7/1/07 to present) are required to take</li> </ul>	18 hours every 2 years <ul style="list-style-type: none"> <li>9 hours of mandatory real estate topics</li> <li>All new agents</li> </ul>



STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	<u>SP</u> How many (clock) hours of PRE-license education are required for salespersons?	<u>BROKER</u> How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?		<u>SP</u> How many (clock) hours of continuing education are required for salespersons?	<u>BROKER</u> How many (clock) hours of continuing education are required for brokers?
	degree) or other equivalent real estate education (if taken within 12 months prior to application)	equivalent education taken while completing a college undergraduate or postgraduate degree (regardless of date of degree) or other equivalent real estate education (if taken within 12 months prior to application)		12 hour new agent course	(licensed 7/1/07 to present) are required to take 12 hour new agent course
Virginia	60 hours of education <ul style="list-style-type: none"> <li>Can be waived for equivalent education</li> </ul>	180 hours of education <ul style="list-style-type: none"> <li>Can be waived for equivalent education</li> </ul> <p><b>AND</b></p> 3 (out of 4) years of experience <ul style="list-style-type: none"> <li>Document actual experience</li> <li>Can be waived for</li> </ul>	New salespersons are required to take 30 hours of post-license education required within 1 year (16 hours of continuing education is not required for new salespersons).	16 hours every 2 years <ul style="list-style-type: none"> <li>8 hours of mandatory real estate topics</li> <li>If license expires between 7/31/12 and 6/30/14, 3 hour Residential Standard Agency course is required in</li> </ul>	24 hours every 2 years <ul style="list-style-type: none"> <li>16 hours of mandatory real estate topics</li> <li>If license expires between 7/31/12 and 6/30/14, 3 hour</li> </ul>

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STATE	PRE-LICENSING REQUIREMENTS		EXPLANATION/POST-LICENSING REQUIREMENTS	POST-LICENSE REQUIREMENTS	
	<u>SP</u> How many (clock) hours of PRE-license education are required for salespersons?	<u>BROKER</u> How many hours of education and/or experience are required for brokers IN ADDITION to that for salespersons?		<u>SP</u> How many (clock) hours of continuing education are required for salespersons?	<u>BROKER</u> How many (clock) hours of continuing education are required for brokers?
		equivalent experience		addition to 16 hours	Residential Standard Agency course is required in addition to 24 hours

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## ATTACHMENT 11

### SINGAPORE PROFESSIONAL STANDARDS

Regulation 18 of the *Estate Agents (Licensing and Registration) Regulations 2010* requires licensed agents to undertake CPD. As the website for the Council of Estate Agents, the body regulating the profession in Singapore says:

#### **Professional Development Scheme**

CPD is one of the key components of CEA's regulatory framework to achieve higher professional standards of the real estate agency industry. Under the Estate Agents (Estate Agency Work) Regulations 2010, every KEO, practising director/partner and salesperson will be required to undertake mandatory continuing professional development (CPD) - a minimum of 6 hours learning activities each calendar year, of which at least 3 CPD hours must be on core subjects. Fulfilling CPD hours is also a renewal licensing/registration condition stipulated in the Estate Agents (Licensing and Registration) Regulations 2010. Failure to comply will affect their registration and may lead to removal from the Public Register.

The CPD requirement is to ensure that KEOs and salespersons possess the necessary professional knowledge in estate agency work and continuously upgrade themselves by keeping abreast of latest changes in Government policies and procedures for property transactions. CEA places emphasis on core subjects as these help improve the professional effectiveness of KEOs and salespersons. CEA will move its policy directions towards increasing the number of core-subject hour requirement.

#### **Core and Non-core Subjects to Enhance Professional Competencies of KEOs, Practising Directors/Partners and Registered Salespersons**

The following is a broad classification:

<b>Core Subjects (Core Competencies)</b>	<b>Non-Core Subjects (Enhancement/Skills Competencies)</b>
C1: Estate Agents Act and Regulations	N1: Marketing skills and techniques
C2: Laws, Government Policies and regulations related to estate agency work	N2: Business management
C3: Practice-related knowledge and issues	N3: Financial services
C4: Professional ethics	N4: Information technology
	N5: Management and supervisory skills
	N6: Interpersonal skills

Ongoing studies and completion of certain degree programmes which are directly related and relevant to real estate agency industry can be counted towards CPD requirements. These will be assessed on a case-by-case basis.

#### **CPO credit hours**

There is a cap of 2 CPO credit hours for each core activity undertaken, regardless of the number of hours per session. For a full-day course/seminar/lecture/workshop approved to be recognised as core activity, CEA will award a maximum of 2 CPO credit hours per day.<sup>22</sup>

<sup>22</sup> <http://www.cea.gov.sg/cealcontent/estateagenciesagents/professionaldevelopment/cpdevelopment.html> accessed 29 September 2012

## ATTACHMENT 12

### COUNCIL OF SMALL BUSINESS OF AUSTRALIA (COSBOA) PRESS RELEASE

#### NATIONAL HARMONISATION DOES NOT MEAN RACE TO THE BOTTOM

COAG is destroying a good idea by dumbing down national standards.

COSBOA has always supported national licensing as a way to reduce paperwork for people wanting to move and transfer their skills and expertise to other parts of Australia. This is a way to streamline red tape but it should not mean that we reduce educational standards required by industry.

Peter Strong, Executive Director of COSBOA, stated today that "when harmonising state and federal regulations we have had governments select the highest penalty rates to then apply across jurisdictions with lower rates but with qualifications we, for some reason, have chosen the lowest level needed and asked those with higher levels to drop back to a lower standard. This disadvantages those who have gone the extra yards and can also have a negative impact on an industry. A good example of this is the recent decision to choose Certificate IV as minimum requirement for real estate agents. The higher diploma standard used in some jurisdictions is what is needed and by choosing the lower level there will be a potential cost to consumers and a disadvantage to those who have achieved the higher, diploma level. Importantly, in this example, the diploma provides the extra knowledge needed to run a business as well as be an expert real estate agent. We support the development of business skills as well as technical skills."

COSBOA believes that it is essential that members of the 'first wave' occupations become part of the National Occupational Licensing Scheme, and have adequate entry-level standards for the profession. This includes electrical occupations, plumbers, gasfitters, refrigeration and air-conditioning mechanics. These are small business people who the consumer expects will have proper training and access to continuing professional development. In the case of the real estate profession, this means that WA, NT, Tasmania and South Australia are all facing a lowering of educational qualifications from Diploma to Certificate IV; it is the extra units that provide the vital knowledge about running a business.

COSBOA is further disappointed that the current recommendations for national licensing contained in the Regulatory Impact Statement for the real estate profession deny the need for continuing professional development (CPD). Most professionals in that industry understand the need to update their skills. It only takes 10-15 hours a year to ensure small business people stay in touch with the latest information and trends facing the industry in terms of legislation, consumer risk and good practice.

Mr Strong added "Dumbing down an industry standard is not the way to go and it is also somewhat galling that we are asked for feedback on the recommendations using the Survey Monkey process. That process will make it easy for the public servants to get the result they want and save them time in analysis but it certainly makes it harder for industry to give the information that we consider to be most important."

**COUNTING THE COSTS**

Response to the Consultation Regulation Impact Statement  
Proposal for National Licensing for Property Occupations

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*Submission by the Real Estate Institute of Australia*  
OCTOBER 2012

