

Mutual Recognition Review

Amended Submission from the

Valuers Registration Board of Queensland

The Valuers Registration Board of Queensland ('the Board') refers to and reiterates the points made in its 2008 submission on the subject of the Mutual Recognition Scheme (copy **attached**).¹

Additionally, the Board wishes to comment on the *coverage, efficiency and effectiveness* of the Scheme.² In this regard, the Board draws to the Commission's attention a serious practical problem the Scheme creates in the state of Queensland.

1. REGISTRATION PROCESS

The Board is a statutory body that controls the registration and discipline of real estate property valuers in Queensland.³ To become registered as a valuer in Queensland, a candidate must apply via the Queensland-based application process.⁴ Alternatively, if candidates already hold unrestricted registration in New South Wales, Western Australia or New Zealand, they can have their registration mutually recognized in Queensland by providing the Board with a certified copy of their current license.⁵ There are discrepant registration requirements as between Queensland and New South Wales.⁶ New South Wales has minimal academic and practical requirements: a two year TAFE course is sufficient and candidates need not have any practical experience. By contrast, in Queensland, candidates for registration must either possess a Board-approved undergraduate degree, or a Board-approved postgraduate Masters or Graduate Diploma in conjunction with some previous academic qualification the Board considers appropriate. In addition, Queensland candidates must:

- have at least two years practical experience working under the supervision of a registered valuer;
- provide a log book of their past 12 months experience and four sample valuation reports; and
- attend an interview before the Board.

2. PROBLEM

The problem lies in the fact that the Mutual Recognition Scheme permits New South Wales valuers to gain registration in Queensland without meeting Queensland's high standards.

¹ The Mutual Recognition Scheme refers to the Scheme administered under the *Mutual Recognition Act 1992* or the *Trans-Tasman Mutual Recognition Act 1997*.

² One of the points the Productivity Commission has been asked to assess, at: <http://www.pc.gov.au/inquiries/current/mutual-recognition-schemes>

³ The Board administers the *Valuers Registration Act 1992* and the *Valuers Registration Regulation 2013*.

⁴ At: <http://vrbqld.com.au/index.php/forms-and-guides/>

⁵ Under the *Mutual Recognition Act 1992* or the *Trans-Tasman Mutual Recognition Act 1997*.

⁶ The registration requirements in Western Australia and New Zealand are similar to Queensland's.

Candidates seeking registration in Queensland who do not possess the requisite qualifications or experience can circumvent Queensland's rigorous registration process by obtaining registration in New South Wales and then having this mutually recognized under the Scheme.

On a number of occasions, the Board has been obliged to register a New South Wales candidate via mutual recognition, even though it has previously declined to register the same candidate under the Queensland-based application system.

This problem is widespread and is growing steadily each year. According to the Board's annual registration statistics, it is consistently the case that a minority of registrations each year are granted via the Queensland-based application system, and a majority are granted via Mutual Recognition.

Furthermore, almost all the registrations that are mutually recognized derive from New South Wales, as the following table illustrates:

| Year | Registrations via Queensland-based application system | Registrations via mutual recognition |
|-----------|---|--------------------------------------|
| 2008/2009 | 47 | 67 (63 from NSW) |
| 2009/2010 | 56 | 59 (59 from NSW) |
| 2010/2011 | 24 | 50 (47 from NSW) |
| 2011/2012 | 36 | 62 (59 from NSW) |
| 2012/2013 | 28 | 49 (all from NSW) |
| 2013/2014 | 32 | 47 (46 from NSW) |

3. PRACTICAL EFFECT OF PROBLEM

The Mutual Recognition Scheme has led to a reduction in standards of the valuation profession in Queensland.

The detrimental effect of this is ultimately borne by consumers. Prior to mutual recognition, Queensland consumers could be confident that any registered valuer with whom they dealt met minimum standards prescribed by Queensland's legislation. Since mutual recognition, persons with significantly less educational and practical experience in valuing land can come to Queensland and hold themselves out to the public as registered valuers. Consumers have no way of differentiating between valuers who meet Queensland standards and those who have gained registration based on a lesser qualification from another jurisdiction.

4. AUTOMATIC MUTUAL RECOGNITION

Automatic Mutual Recognition would create the following issues for the Board:

- **Continuing Professional Development (CPD)**

There are 2 components to renewal of registration for registered valuers in Qld, regardless of where they reside, that is payment of the roll fee and providing documentary evidence of 10 hours of Continuing Professional Development (CPD) for the preceding 12 month period. There is no requirement in New South Wales for registered valuers to undertake any CPD, so these valuers would be in breach of the Qld Legislation.

- **Disciplinary Action**

The Board currently has the ability to take disciplinary action against valuers registered in Qld or refer the more serious matters to the Queensland Civil and Administrative Tribunal (QCAT).

- a) If a complaint was lodged with the Board in regard to a valuer whose 'home' jurisdiction was New Zealand, who would handle this complaint?
- b) Would the 'Agreement on Trans-Tasman Court Proceedings and Regulatory Enforcement' take over the complaint?
- c) Would these proceedings have authority to impose disciplinary action and/or penalties? Would the Board be paid any such monetary penalties?

While this list is not exhaustive, these alone could be a very expensive and time consuming exercise for the Board.

- **Remuneration**

The Board is a self-funding Statutory Authority that relies totally on registration fees and renewal of registration and receives no financial assistance from Government. If a valuer was not required to register or renew in a 'host' jurisdiction, the Board would lose this source of revenue. The following are some of the financial responsibilities the Board currently has:

- a) Annual Sponsorship of the CPD program of the Australian Property Institute
- b) Annual Sponsorship of the 5 Universities in Qld offering the valuation course
- c) Investigation and legal costs associated with disciplinary matters
- d) Maintenance of its website, computers etc
- e) Office staff, and
- f) Everyday expenses associated with running an office/Board

5. SUBMISSION: SUGGESTIONS FOR IMPROVEMENT

The Board accepts and embraces the fundamental desirability of professional mobility throughout Australia and approves of the Mutual Recognition Scheme to the extent that it promotes this.

The Board submits that implementing a mutual licensing scheme alongside the Mutual Recognition Scheme would solve the abovementioned problem. The mutual licensing scheme would need to set a national standard for valuer registration which is more rigorous than that of New South Wales, and resembles that of Queensland, Western Australia and New Zealand.

There is, however, likely to be strong resistance to such a mutual licensing scheme by New South Wales TAFEs and other tertiary institutions offering those qualifications which would no longer qualify candidates for registration as valuers.

Accordingly, the Board also submits an alternative measure: the implementation of a new disclosure requirement for valuers registered in Queensland. At a minimum, those valuers who do not possess the academic qualifications to be registered via the Queensland-based registration system should be required to disclose this prior to engaging in a valuation, so that consumers can make an informed choice.

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1. *What have been the costs of implementing and maintaining mutual recognition under the MRA and TTMRA, and to what extent are those costs outweighed by the benefits?*

The direct cost of mutual recognition of valuers from NSW, WA and NZ (the only other jurisdictions that register valuers) is minimal. The Secretary deals with the administrative tasks¹ⁱ as part of her job description.

The direct cost of maintaining mutual recognition is no greater than the administrative cost of maintaining the registration of valuers in Queensland.

However, the indirect cost has been a lowering of the standards applicable to valuers in Queensland as standards for registration in other jurisdictions are lower than standards in Queensland.

2. *Do you consider that occupations registered under co-regulation should continue to be outside the coverage of the MRA and TTMRA, and if so why?*

Valuers are caught in the co-regulation dilemma because in some jurisdictions they are required to be registered by a statutory body (Qld, NSW, WA and NZ) and in other jurisdictions there is no registration requirement. At the same time the Australian Property Institute provides an Australia wide system of professional recognition outside the operation of the *MRA* and *TTMRA*.

It is not the function of this paper to address issues of national regulation of the valuation profession, however the Valuers Registration Board recognises that persons who wish to value land in Queensland may be subject to 2 'registration' regimes and that inevitably leads to valuers wishing to move jurisdictions incurring additional costs and facing 2 sets of red tape.

An Applicant is required to complete an application form (VRB2) and forward to the Board with the appropriate application fee and a certified copy of their current Licence.

The Secretary then seeks confirmation of the registration from the Home State. When confirmation has been received, the application will be tabled at the next Board meeting.

Providing there are no limitations on registration in the Home State, registration in Qld will be granted. However, if an applicant has been the subject of disciplinary action, the Board may seek further particulars before granting registration

3. *Should negative licensing arrangements for occupations be explicitly covered by the MRA and TTMRA? If so, how would this be achieved and what would be the benefits and the costs?*

While the Valuers Registration Board recognises that it may be seen as unfair that persons able to value in SA (which has a negative licensing scheme) cannot value land in Queensland because they cannot take advantage of the mutual recognition scheme; nonetheless there is nothing to prevent those persons from making an application for registration in the same way a Queenslanders would make an application.

The Valuers Registration Board does not see a negative licensing situation as an equivalent occupation as the comparison is between an apple and a fruit of unknown species.

The Valuers Registration Board cannot see any option for mutual recognition but that jurisdictions with negative licensing schemes change to positive licensing. The Valuers Registration Board recognises that the cost would have to be borne by those jurisdictions. The benefit would be that persons from jurisdictions with positive licences can take advantage of the mutual recognition scheme.

4. *Are registration bodies assessing the equivalence of occupations between jurisdictions in markedly different ways, and if so, what impact is this having on cross-border labour mobility?*

Despite the very significant differences between the qualifications and experience of persons registered in Queensland (at a minimum an undergraduate degree) and persons registered in NSW (at a minimum a TAFE qualification) the Valuers Registration Board understands that it has no option but to recognise equivalence of occupations.

In order to be registered in Queensland an applicant must meet the requirements of section 30 of the *Valuers Registration Act 1992*. This requires:

'that the person--

(a) is of good fame and character and is a fit and proper person to be registered as a valuer; and

(b) either--

(i) holds a certificate of competence recognised by the board and issued by a prescribed institute; or

(ii) has passed an examination approved by the board; and

(c) has had sufficient practical experience over a period of at least 3 years since starting an approved course of study to enable the person to competently value land in Queensland. '

In NSW persons are registered if they are fit and proper and have approved qualifications (including a TAFE Diploma); with no practical experience.

This difference is having a significant impact on cross border mobility as it allows persons with significantly less educational and no practical experience in valuing land in Queensland to come to Queensland and hold themselves out to the public as a registered valuer. It also allows Queenslanders who do not meet the high requirements for registration of first time applicants to be registered in NSW and then mutually recognised in Queensland.

5. *How often do occupation-registration bodies impose conditions on people registering under mutual recognition? In which occupations or jurisdictions does this most often occur, and what conditions are imposed?*

The Valuers Registration Board does not impose conditions on people registering under mutual recognition as it has been advised it cannot do so.

The Board would like to impose a condition similar to that required by section 30(c) of the Act, ie sufficient practical experience over a period of at least 3 years since starting an approved course of study to enable the person to competently value land in Queensland.

6. *Are registration bodies applying their prerequisites for initial registration to people seeking registration under mutual recognition? If so, what is the extent of this problem and how can it be addressed?*

The Valuers Registration Board cannot impose the same statutory requirements for education and practical experience on applicants under mutual recognition as it does on first instance applicants for registration. As a consequence applicants from mutual recognition jurisdictions are likely to be significantly less qualified (and in some instances not qualified) than Queensland applicants.

7. *Is jurisdiction hopping and shopping occurring for occupations? If so, to what extent is it occurring and what are the costs (such as race to the bottom) and benefits (such as regulatory competition and innovations between jurisdictions)? What specific examples and other evidence do you have to support your arguments?*

Jurisdiction hopping is occurring, particularly between NSW and Queensland. Since 2003 the number of applications for mutual recognition has more than doubled (see annexure 1) while there has only been an increase of 44% in first instance applications. In the vast majority of cases the first instance jurisdiction of registration is NSW, which has the lowest entry standards for registration of the jurisdictions which require registration. The Board perceives this as the race to the bottom.

The Valuers Registration Board believes that there is a significant cost to the community through the inevitable lowering of standards within the valuation profession. A member of the general public

who seeks the service of a valuer in Queensland² has no way of telling whether the registered person with whom they are dealing has a tertiary degree and has had years of experience under the supervision of a more senior and experienced valuer or has a NSW Diploma and not one day of experience in valuation.

8. What are the costs and benefits of moving from mutual recognition to national licensing for registered occupations and is there a net benefit from doing so?

A national scheme has significant benefits for registrants in terms of uniformity and cost saving. In the valuation profession in effect the Australian Property Institute performs a national role. However, the Valuers Registration Board does not believe that this paper is the appropriate forum for discussion of questions of regulation of the valuation profession.

Currently consumers are protected by operation of each jurisdiction's procedures for the discipline of registered professionals. If there was no mutual recognition and no state registration bodies, either consumers would lose consumer protection benefits provided by the registration bodies or the states would incur the cost of providing consumer protection within another government agency.

9. To what extent do policy makers and regulators encounter difficulties in maintaining expertise on mutual recognition obligations? How, if at all, should this be addressed?

The Valuers Registration Board has a working knowledge of mutual recognition. It is very difficult for the Valuers Registration Board (with a limited budget and a permanent staff of 1.5 persons) to maintain knowledge and currency of its mutual recognition obligations without incurring additional expense. It engages external legal advisors to provide advice if any issue arises.

Conclusion

While the Valuers Registration Board accepts and embraces the fundamental desirability of professional mobility throughout Australia it is concerned that the regime of equivalence has led to a reduction in standards of the valuation profession in Queensland. Prior to mutual recognition Queensland consumers could be confident that any registered valuer with whom they dealt met minimum standards prescribed by legislation. Since mutual recognition consumers have no way of differentiating between valuers who meet that minimum standard and those whose only basis of registration is a lesser qualification from another jurisdiction.

The Valuers Registration Board recognises that the Australian Property Institute performs a valuable role in the regulation of diverse property professionals. We acknowledge that we rely on the API for

² All contracts for the sale of land recommend that the purchaser seek the advice of a valuer.

providing accreditation of courses and providing a guideline for professional practice. However, we do not think that this paper is the appropriate forum for consideration of national regulation of the valuation profession.
