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UPCOMING CPD COURSES

Castle Hill

Sales or Prop Mgmt

Thurs 11th Oct

Orange

Sales and Prop Mgmt

Mon 15th Oct

Castle Hill

Business Broking

Fri 19th Oct

Sydney

Commercial Leasing

Tues 30th Oct

2 HOUR

BREAKFAST

SEMINARS

Full 12 points!

Campbelltown

Sales or Prop Mgmt

Fri 12th Oct

Bankstown

Sales or Prop Mgmt

Thurs 18th Oct

Sydney

Strata Mgmt

Thurs 25th Oct

National Licencing

This fortnight's newsletter is a lengthy one – but with good reason. You may need to make yourself a cup of coffee prior to settling down and reading the following information – perhaps even add a couple of cookies to your plate, to make the reading more palatable. We certainly recommend that you do take the time to read the information, as it provides you with a summary of the 225 pages of the Regulation Impact Statement in relation to the national licencing in the property sector.

Introduction to National Licencing

The Council of Australian Governments (COAG) is proposing a new national licencing scheme for a number of occupations, including the real estate industry, as part of its 'seamless economy' reform agenda. The reforms are aimed at removing overlapping and inconsistent regulation between states and territories, which (it is hoped) will improve business efficiency, reduce red tape, improve labour mobility and enhance productivity.

Under the proposed changes, instead of each state and territory having their own licencing arrangements, licensees could work anywhere in Australia with a single national license.

A national licencing scheme has many potential benefits for our industry. However, if we are going to move in this direction, we need to get it right.

Unfortunately, when the National Occupational Licencing Authority (NOLA) released its Consultation Regulation Impact Statement (RIS) outlining the proposed reforms, it contained many seriously concerning proposals. The effect of these proposals would be a significant dumbing down of standards for our profession, the removal of licencing for commercial and stock and station agents and the scrapping of continued professional development. These changes threaten the professionalism of our industry and the safety of consumers. This newsletter will help you understand the proposed changes so that you can make an informed response to the proposed scheme.

The Current Licencing Framework

Property occupations are currently licenced under state and territory legislation. Among these jurisdictions there are a number of different approaches to licencing.

Victoria and South Australia take a broad licencing approach, issuing a single license that covers sale, auction, lease and management of residential, commercial and rural property and businesses. Other jurisdictions have separate license categories in addition to a real estate license. For example, in NSW there are separate license categories for business agents, stock and station agents, strata managing agents, onsite residential property managing agents and buyers agents.

The states and territories differ in the eligibility requirements for obtaining a license. NSW, Victoria and QLD require a Certificate IV, while WA, SA, Tasmania and the NT require a diploma. There are also varying experience requirements, with every state except NSW requiring between 1 and 3 years of experience as an agent's representative before being eligible for a license.

Furthermore, some states (NSW, WA, ACT and TAS) require licensees to undertake mandatory Continued Professional Development (CPD) in order to be eligible to renew their license. For example, in NSW and WA, licensees are required to do at least 10 hours of CPD per year. In other states, CPD is a requirement for membership to peak industry bodies such as the Real Estate Institute of Queensland.

The Consultation Regulation Impact Statement (RIS)

Nola has prepared an RIS and is seeking stakeholder feedback on the proposed reforms to licensing in the property industry. The RIS provides stakeholders with the following three options to choose from:

1. **Maintain the status quo**
2. **National licensing:** A national licensing system would provide a single policy approach to licence categories, regulated work and the eligibility requirements to obtain property licences. This would allow a person to work anywhere in Australia where the relevant work is licensed, without having to reapply for a licence or pay an additional fee. A national public register would be established.
3. **Automatic mutual recognition:** Under an automatic mutual recognition approach to national licensing, each jurisdiction would continue to issue licences against existing jurisdictional categories and associated scopes of work, but the majority of those licences (where a licence equivalency has been declared) would be recognised by every other state and territory without the licensee having to reapply for a licence or pay an additional fee.

National licensing is COAG's desired option as it best achieves the level of regulatory harmonization that these reforms are seeking to achieve. We also would support a national licensing scheme in principle. The property industry would benefit greatly from increased labour mobility and efficiency in dealing interstate. However, as the next section highlights, the national licensing scheme as proposed by the RIS is highly unsatisfactory.

Concerns with the National Licensing Scheme Proposed in the RIS

In response to the inconsistencies in licensing arrangements among the states and territories, the COAG National Licensing Steering Committee identified eleven "unnecessary requirements on license holders" that it would not include under the new national licensing scheme. The proposals to scrap the following requirements are of particular concern:

- The licensing of commercial property work, including stock and station agents.
- mandatory continuing professional development (New South Wales, Western Australia, Tasmania and the Australian Capital Territory)
- registration of strata manager's representatives (currently in New South Wales)

The omission of these requirements from the national licensing scheme represents a lowest common denominator regulatory approach that will significantly diminish the professional standards of property occupations across Australia. As a result, the high level of service and expertise that characterises our industry will be severely compromised, and consumer protection and confidence will be eroded. Let's take a closer look on what COAG is planning to do.

Licensing of Commercial Property Work, and, the Sale, Purchase and Auctioning of Livestock:

Under the proposed national licensing system, commercial (or 'non-residential) agents will not require a licence despite the fact that non-residential agency work is currently regulated in every Australian jurisdiction. The reason given in the RIS is that most parties to commercial property transactions are "sophisticated consumer[s] operating at the 'high end'" of the market, and therefore do not need the consumer protections offered by current regulations.

This reasoning ignores the fact that in reality, a large portion of commercial properties cost no more than the average home, nor are they all owned by large companies. For example, it fails to take into account the countless small business owners needing to lease or buy premises who have limited knowledge of such complex property transactions. In a majority of commercial property transactions there is a definite need for a licensed commercial property professional who can guide consumers through the process.

Another highly concerning feature of the proposal to deregulate commercial property transactions is that it will abolish licensing for stock and station agents. Under the new scheme, you will no longer require a license to sell, auction or lease rural land and stock where the main purpose of that land is for primary or commercial production.

This would be an extremely detrimental outcome for consumers. Many farmers would not consider themselves to be 'sophisticated consumers' with a vast knowledge of commercial property transactions. Instead, they are largely reliant on the skills and professionalism of trained and licensed stock and station agents. Any agent would agree that these transactions can be far more complex than residential sales and require a specialised set of skills and knowledge. However, under the proposed changes, farmers would have to buy, sell and lease their rural land in a totally unregulated environment where they are at substantial risk from dodgy untrained and inexperienced agents. COAG has even acknowledged that a fourteen-year-old would be able to oversee the transaction of millions of dollars' worth of stock and rural land under the proposed system. There is a clear need to maintain and unify the professional standards that are already in place across several Australian jurisdictions.

Additionally, the impact on agents in the commercial and rural property field would be incredibly damaging. Experienced agents with extensive training and knowledge would have to compete with a wave of new untrained and inexperienced agents looking to make a buck. More and more property transactions will be compromised, and growing consumer dissatisfaction will reflect poorly on the real estate industry as a whole. The value of commercial real estate businesses and the services they provide will be diminished as the professionalism of our industry is eroded.

Furthermore, the national license will not cover the sale, purchase or auctioning of livestock. The RIS states that the in 2011-2012, the property industry is expected to generate revenue of \$9 billion. The Australian Livestock & Property Agents Association Ltd (ALPA) estimates that its member agents alone sell approximately 10 million cattle and 55 million sheep and lambs for a value close to \$11 billion a year, collecting \$82 million in commission on these sales. The scale of this industry and its vital importance to Australia's economy demands a high degree of professionalism. The deregulation of this industry greatly increases the risks to farmers posed by unethical or incompetent agents.

Mandatory Continuing Professional Development

One of the major aims of the national licensing scheme is to create uniformity in licensing arrangements across Australia. However, rather than raising professional standards for licensing, or even maintaining them at current levels, COAG has reduced these standards to the lowest common denominator. A key area in which this has occurred is Continued Professional Development.

Whilst not all jurisdictions currently have mandatory CPD for property professionals, a majority of them have CPD in some form. CPD is crucial in the constantly changing regulatory environment of the property industry. It is vital that property professionals stay abreast of these changes if consumers are to receive the level of service and protection they deserve. The buying and selling of real estate involves complex legal transactions, and property agents need to maintain their knowledge and skills to ensure that consumers remain protected from transactional errors, negligence and unethical practices. For most people, the family home represents the biggest purchase of their lives, and they want to have absolute confidence that the agent carrying out that transaction on their behalf exercises utmost diligence and professionalism.

Compulsory CPD is an important aspect of most other professions (refer to table 1), and real estate should be no exception. CPD is not only undertaken by doctors and lawyers, but also builders, nurses, teachers, architects, accountants, mortgage brokers, financial planners, engineers and social workers. A common feature of all of these occupations is that they require a client to place a huge amount of trust in the professionalism of the service provider to take care of an important asset. For example, we trust doctors and nurses to look after our health, we trust teachers to educate our children, we trust accountants and financial planners to look after our money and we trust builders, architects and engineers to carefully construct our homes. In the same way, our clients in the property industry trust us to look after what is likely to be their most materially valuable asset; their house, their apartment, their farm, their livestock, their business.

Given the size and importance of the assets that property professionals deal with, the complexity of the transactions they facilitate, and the trust placed in their skills and knowledge by consumers, CPD should be recognised as an indispensable feature of our profession.

The current CPD requirements in those jurisdictions where it is mandatory are modest, usually only requiring 4 hours per year of a licensee's time. This is an extremely worthwhile investment when one considers the potential cost and hassle that can result from making errors in a property transaction, or the misconduct of an agent or one of their representatives. The costs of mandatory CPD are far outweighed by the benefits to consumers and the ongoing reputation and professionalism of our industry. It therefore makes far more sense to include mandatory CPD in a national licensing scheme than to scrap it altogether.

Registration of Strata Manager's Representatives

In NSW, the representatives of a licensed strata managing agent must attain a certificate of registration by completing three units of competency. This is a very reasonable educational requirement given the size of many strata schemes in NSW and the millions of dollars that flow through them. Strata manager's representatives undertake much of the same work as a licensed strata manager and may deal with large sums of trust money. It is therefore imperative that we set at least some minimum training standards in this occupation.

This is an area where the national license could unify the states and territories in requiring registration of strata manager's agents across Australia, but instead we once again see a reversion to the lowest possible standards. Soon we will see strata managers in NSW with no training or experience dealing with large strata schemes worth millions of dollars. This scenario is rife with dangers for strata residents and lot owners, which is an ever-growing proportion of modern living.

Make a Submission

We hope that this newsletter has helped you develop a more informed opinion on the proposed national licensing scheme.

The National Occupational Licensing Authority (NOLA) will be accepting stakeholder submissions on the RIS up until **12 October 2012**. If you are concerned by aspects of the scheme proposed in the RIS, **it is vitally important that you speak up now**.

If we as property professionals do not respond, decisions that impact our future will be made without our input. The professionalism and reputation of our industry is at stake, so be sure to make your views heard.

Please be aware that **NOLA will only accept submissions made using the survey provided on their website, <http://www.nola.gov.au>**. The survey can be found under the 'RIS Consultations' tab on the home page, and can be completed online or in paper format. The survey questions are in many ways less than satisfactory, so make sure you offer feedback and additional comments in the spaces provided.

Real estate agents across Australia are expressing deep concerns with the some of the proposed changes, but unless they are shared to the right people, in the right format, those concerns will soon become a reality.

Table 1

Profession	CPD Mandated Requirements	Qualifying Body
Teaching	100 hours of professional development over a five year period if full time, or seven years if casual or part-time	NSW Institute of Teachers
Nursing	20 hours per year	Nursing and Midwifery Board of Australia
General Practitioners	130 points over a three year period	The Royal Australian College of General Practitioners
Building	12 points (12-24 hours per year)	NSW Office of Fair Trading
Law (solicitors)	Minimum 10 hours per year	Law Society of NSW
Medicine (all specialist fields)	Compulsory annual CPD checked on renewal of registration. Requirements differ between areas of practice and are set by medical colleges accredited by the Medical Board of Australia.	Medical Board of Australia
Social work	Minimum 30 hours per year. Minimum 75 hours per year to attain 'Accredited Social Worker Status'.	Australian Association of Social Workers
Engineering	150 hours over a three year period	Engineers Australia
CPA Accountancy	Complete 120 CPD hours every three years, with at least 20 CPD hours each year	Certified Practising Accountants Australia
Architecture	20 hours per year	Australian Institute of Architects
Financial Planners	120 points/triennium with a minimum of 35 points each year. Generally 1-2 points per CPD hour.	Financial Planners Association of Australia
Mortgage Brokers	30 CPD Hours per year	Mortgage and Finance Association of Australia