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SUBMISSION TO THE NATIONAL COMMISSION OF AUDIT

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ABOUT REIA

The REIA is the peak national association for the real estate profession in Australia.

The REIA's members are the State and Territory Real Estate Institutes, through which around 75% of real estate agencies are collectively represented. The 2011 Census records the Rental, Hiring and Real Estate Services Industry employment sitting at a total of 117,880. By occupation the key data recorded by ABS Census were 64,699 Business Brokers, Property Managers, Principals, Real Estate Agents and Representatives.

The REIA represents an important element of the broader property and construction sector which together makes a significant contribution to Australia's social climate and economic development. Property contributes \$300 billion annually in economic activity.

Importantly, REIA represents an integral element of the small business sector. Some 99% of real estate agencies are small businesses and 11% of all small businesses in Australia are involved in real estate. Only 0.6% of businesses employ 50 or more persons.

REIA is committed to providing and assisting research and well-informed advice to the Federal Government, Opposition, professional members of the real estate sector, media and the public on a range of issues affecting the property market.

SUBMISSION TO THE NATIONAL COMMISSION OF AUDIT
RECOMMENDATIONS

RECOMMENDATION 1

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RECOMMENDATION 2

That for the time being a scheme of mutual recognition of trade qualifications be maintained.

RECOMMENDATION 3

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RECOMMENDATION 6

So as to assist the Government in developing the White Paper on the Reform of the Federation, the Audit Commission should develop a set of tests to assist in determining when matters should be either:

- (a) placed on the COAG agenda; or*
- (b) be suitable for national regulation.*

RECOMMENDATION 7

The Commonwealth should require States and Territories provide first home owner assistance to purchasers of both new and established homes.

RECOMMENDATION 8

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SUBMISSION TO THE NATIONAL COMMISSION OF AUDIT

INTRODUCTION

REIA welcomes the opportunity to make a submission to the National Commission of Audit.

The Commission has been asked to consider:

- (a) the split of responsibilities between and within the Commonwealth Government and State and Territory Government, including areas of duplication;
- b) the current architecture of Commonwealth – State relations; and
- (c) identify options for a clearer delineation of responsibilities for policy and service delivery.

REIA wishes to make a submission in two policy areas that are relevant to these areas of inquiry:

1. National Licensing of Specified Occupations;
2. First Home Owner Grant.

1. National Licensing of Specified Occupations

The *Intergovernmental Agreement for a National Licensing System for Specified Occupations* proposes national laws for eight separate trades and professions as part of the National Partnership Agreement to Deliver a Seamless National Economy. One of these is the property profession (real estate).

In a report prepared for the COAG Reform Council, the Allen Consulting Group 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).

*The problem is that while it might be argued that any apparently net positive reform is worth doing, this is not true because every reform creates an opportunity cost in terms of the scarce time and resources that are needed to negotiate, implement and monitor the reform. **All things considered, not every proposed reform is worth doing, and if they’re not worth doing they’re not worth doing well¹ (emphasis added).***

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

The Council of Australian Governments' National Licensing Steering Committee has published a Decision Regulation Impact Statement (**the Decision RIS**) for the proposal for national licensing of the property occupations.

Table ES 5 of the Decision RIS, which sets out the ongoing net impacts of national licensing for the property occupations, is **attached**.

It estimates the ongoing net benefit of the proposed reforms is a mere \$96.66m per annum, on an industry generating revenues of \$8.9bn, or around 1%² (with most of the asserted gain derived from the removal of compulsory continued professional development), with the State of Tasmania benefiting by a mere \$580,000.

Moreover, the most common reason advanced for national licensing is the capacity to allow labour to move around the country in response to opportunities in the market place.

The Discussion RIS admits that the benefits from improved labour mobility are difficult to quantify and that benefits are based on 'scenarios or assumptions'.

It is this local knowledge that provides agents the capacity to provide services to customers.

To that extent, REIA notes the observations made by Synergies Economic Consulting in its recent discussion paper prepared for the Queensland Government that doubts from stakeholders over the impact of national licensing on labour mobility were noted in the Decision RIS but no adjustment was made to the benefit estimate.³

The REIA finds it very disappointing that such an error could end up influencing a decision on national licensing.

The Decision RIS also notes

*A separate reform, which seeks to harmonise conduct requirements commencing with property occupations, is being undertaken by the Legislative and Governance Forum on Consumer Affairs. **The full benefits of a national licensing system would be realised if this further reform is undertaken (emphasis added).***⁴

REIA believes that licensing and conduct go together – that is they are the two sides of the same coin. This is because 'conduct' issues ranging from trust accounting to the conduct of auctions through to standards of behaviour.

² Estimate contained on page 152 of the Decision RIS

³ Synergies Economic Consulting *Consultation for National Licensing of Property Occupations – Summary of Issues for Discussion*:1

⁴ Decision RIS p.120

In that context, since the publication of the Decision RIS, the National Occupational Licensing Authority published a submission to a Productivity Commission commissioned study on geographic labour mobility⁵.

One of its conclusions was that:

*The exclusion of conduct requirements from initial implementation of the national licensing system retains an inefficient system with inconsistencies across jurisdiction and, increased confusion for licensees and consumers about the applicable conduct rules and prevents the full benefits of the national system from being achieved.*⁶

REIA has always argued that conduct and licensing are interlinked. There is simply no net public benefit to design a system that will **amplify** and not **reduce** interstate confusion.

Finally, REIA notes it is proposed to greatly reduce consumer protections from Australia's property licensing laws, through the removal of continued professional development and the reduction in the number of subjects that agents must satisfy to become licensed.

This dumbing down of standards has also been criticised in the context of national licensing of electrical contractors by the National Electrical and Communication Association and Energy Networks Australia⁷.

There would appear to be a systemic problem in the way national licensing has been approached if the industry associations representing such different areas of the Australian economy have come to the same conclusion.

The National Occupational and Licensing Authority (NOLA)

The Discussion RIS says:

*Under a national licensing approach, NOLA would be responsible for developing national licensing policy for each occupational area and overseeing its consistent application by jurisdictional regulators. The operation of licensing services would be delegated to the existing jurisdictional regulators*⁸.

Under the current national licensing proposals, NOLA would be responsible for developing national licensing policy for (to start with) the electrical occupations, plumbing and gasfitting occupations, property occupations and refrigeration and air conditioning mechanics, with building and building-related occupations, conveyancers and valuers included in a so-called 'second tranche' of national licensing.

⁵ <http://www.pc.gov.au/projects/study/labour-mobility>

⁶ Page 7

⁷ NECA Press release 23 July 2013; Energy Networks Australia Press Release 25 July 2013

⁸ Decision RIS p.87

It is somewhat doubtful that despite the best advice from specialist committees a single authority would have the technical capacity to develop licensing policy for such a diverse range of occupations.

The Decision RIS said that under a national licensing approach, NOLA would be responsible for developing national licensing policy for each occupational area and overseeing its consistent application by jurisdictional regulators, with the potential saving of (only) \$15.9 million Net Present Value (NPV) over ten years.

The Decision RIS then went on to say:

These estimates are a useful indication of the potential scale of savings that could be realised. However, agencies doubt that these savings could be fully realised due in part to new and additional work to support NOLA and effectively contribute to national policy development undertake additional administrative functions as delegates of the national licensing authority (as compared to current arrangements), or regulate additional licence categories.

The jurisdictional consultation following the release of the Decision RIS confirmed that administrative costs for jurisdictions in moving to a system of national licensing had not been adequately assessed and were severely underestimated.

This admission also means there must be some doubt about the presence of any administrative savings arising from the national scheme. The body administering the national scheme then amounts to an additional and unnecessary layer of bureaucracy, the costs of which can be saved. In 2012-2013 the operational costs of the National Occupational Licensing Authority were \$7.4 million, and this is without a single national scheme to administer. The budget for 2023-2014 is \$8.4 m and again this is without the likelihood of administering a single scheme.

Moreover, as the jurisdictions have made clear, and as recorded in the Decision RIS, the state based departments will still be responsible for providing a lot of the policy work as well as actually providing the licensing services to the community.

In a submission to the Productivity Commission, the National Occupational Licensing Authority said that in relation to the 'first wave' of occupations to be nationally licensed said (amongst other things):

- The original timeline for implementing the current project was overly optimistic and underestimated the complexity of achieving the national consensus and legislative change required for the project; and
- The exclusion of conduct requirements from initial implementation of the national licensing system retains an inefficient system with inconsistencies across jurisdictions and, increased confusion for licensees and consumers about the applicable conduct rules and prevents the full benefits of the national system from being achieved.

There is no national interest in proceeding with a process that is rushed – a common criticism of the previous government.

This discussion also establishes a **case study** of the dangers in mechanically applying a ‘one size fits all’ approach to national regulation – particularly, as is the case with property licensing the case for standardisation for workforce mobility reasons – or, for that matter, any other market efficiency reason - has not been made out.

This is an important point, as imposing ill-considered national regulation for its own sake runs the risk of creating an environment in which the community will not support reform where it genuinely is the national interest.

Finally, there appears no rationale in creating a pendant national regulator heavily reliant on state administrations to provide services and policy creation – this constitutes the creation of a ninth regulator and not a streamlining of process.

RECOMMENDATION 1

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RECOMMENDATION 2

That for the time being a scheme of mutual recognition of trade qualifications be maintained.

It may well be the appropriate COAG body (in this case, the COAG Legislative and Governance Forum on Consumer Affairs) can develop workable occupational licensing schemes with broad community support.

REIA has some views as what would constitute ‘best practice’ regulation, contained in its October 2012 publication *Counting the Costs - Response to the Consultation Regulation Impact Statement Proposal for National Licensing for Property Occupations* which can be found at http://www.reia.com.au/userfiles/MEDIARELEASE_1385423655.pdf.

However, testing these propositions is probably best done through discussion amongst the states – which have the expertise to regulate occupational licensing.

Nothing is achieved by: adding an additional layer of bureaucracy (in the case of NOLA); or having imposed on the policy development process generalist officers of the Industry Department with no experience in either how (for instance) the property industry operates on a day to day basis (and thus assist policy development) or in enforcing the law against those who breach it. These officers were largely responsible for the development of a somewhat flawed RIS process.

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This should improve efficiency, whilst reducing costs and allowing public resources to be used in areas where there is clear federal expertise and responsibility.

Finally, REIA notes an observation made in a press release on 6 November 2013 from the Business Council of Australia which says that if COAG is to be a useful national institution, it needs to adopt a more streamlined, medium-term agenda, which focuses only on the most important issues facing the nation. REIA agrees with this observation.

The COAG agenda also needs to be carefully assessed and prioritised so that there is a focus on delivering a number of outcomes rather than addressing a plethora of matters but achieving little – the agenda cannot become so bloated that little is achieved.

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That said, if something is on the COAG agenda, agreed outcomes should be honoured, as the second issue REIA raises illustrates.

2. First Home Owner Grant

Only four of the eight states and territories are providing any assistance to those first home buyers purchasing established homes. These are the Northern Territory, Tasmania, South

Australia and Western Australia with two of these – Tasmania and South Australia - ceasing assistance for established housing on 30 June 2014.

This is despite Schedule A to the Intergovernmental Agreement on Federal Financial Relations requiring that assistance to first home buyers should be 'uniform' and that an eligible home will be 'new or established'.

First home buyers have a preference for established houses with around 70% of first home buyers purchasing established houses. During the fiscal boost provided under the Government's response to the global fiscal crisis in 2008 this increased to a preference for established housing to new at a ratio of 9:1.

The socio-economic demographic of the majority of first home buyers shows a preference to live close to existing facilities and work as opposed to buying in new housing estates. This is for a number of reasons such as lifestyle and awareness of the environmental impacts of the development of new estates, as well as a desire to avoid commuting longer distances without adequate public transport. In addition the established homes purchased by first home buyers are generally smaller and cheaper than new ones.

REIA believes it is important that national schemes largely funded by the Commonwealth should be put to the purposes agreed through the COAG process.

The Audit Commission would assist good administration if it could reinforce the principle that, if a decision is identified as being important enough to be dealt with through the COAG process, where COAG has come to a decision that requires Commonwealth money to implement, the terms of the agreement should be honoured.

RECOMMENDATION 7

The Commonwealth should require States and Territories to provide first home owner assistance to purchasers of both new and established homes.

RECOMMENDATION 8

The Audit Commission should recommend the development of a standing mechanism that reduces the level of transfer payments payable under intergovernmental agreements when States and Territories make policy decisions that are contrary to the relevant agreement.

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ATTACHMENT 1

Table ES 5: ongoing net impacts of national licensing for the property occupations

	NSW	Vi c	Qld	WA	S A	Ta s	ACT	NT	Total
Total ongoing	42.49	5.97	14.29	21.52	8.07	0.58	1.61	2.13	96.66
<i>Direct impacts on licensees</i>									
Removing requirement for continuous professional development	25.57	-	-	10.28	-	0.27	0.87	-	36.99
Real estate agents – qualification changes	-	-	(0.43)	0.96	0.84	0.09	(0.04)	0.15	1.56
Licensees undertaking both real estate and business agency work – qualification	-	(0.02)	(0.04)	-	(0.01)	(0.001)	-	-	(0.06)
Agent representatives – qualification	-	(0.85)	4.32	3.01	4.59	-	0.06	1.15	12.27
Strata managers – qualification	-	-	-	-	-	-	(0.03)	0.003	(0.03)
Real estate auctioneers – qualification changes	0.19	0.09	0.02	(0.03)	0.07	0.005	0.01	(0.003)	0.35
Consistent licence period (1, 3 or 5 years)	3.02	2.41	1.645	0.48	0.06	(0.01)	0.25	0.14	8.00
Agent representatives in Vic – increasing frequency of processing	-	(0.01)	-	-	-	-	-	-	(0.01)
Removing the need to hold multiple licences	0.74	0.39	0.49	0.21	0.15	0.07	0.12	0.11	2.27
<i>Government impacts</i>									
Removing the need to hold multiple licences –	(0.25)	(0.10)	(0.27)	(0.01)	(0.10)	(0.001)	(0.17)	(0.02)	(0.92)

NOLA operational	-	(0.37)	(0.28)	(0.23)	(0.12)	(0.09)	(0.03)	-	(0.01)	(1.12)
Labour mobility¹⁵	7.83	3.57	7.42	2.58	0.99	0.07	0.30	0.21	22.97	
<i>Broader impacts</i>										
Business value-add	5.74	0.31	1.34	3.96	1.56	0.09	0.21	0.41	13.61	
Other ongoing benefits	0.01	0.46	0.01	0.21	0.001	0.02	0.05	0.0019	0.76	