

LAND VALUERS

NEWS

A newsletter from the Consumer Protection
Division of the Department of Commerce

Land Valuers and Landgate's new Property Interest Report

Landgate recently released a new version of its Property Interest report (PI report). A PI report contains a detailed picture of the registered and unregistered interests that may affect a property. As such, a PI report is a flexible, low cost and convenient tool that may help land valuers complete a professional valuation.

Background

Landgate's most recent advice states there are up to 85 interests, restrictions or responsibilities in Western Australia that are not listed on the Certificate of Title which may affect an owner's use or enjoyment of land. The new PI report provides information on 57 interests, restrictions and responsibilities (and this number will increase over time).

More information on PI reports, what they contain and a sample report can be found at www.landgate.wa.gov.au/corporate.nsf/web/Property+Interest+Report

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National Occupational Licensing Scheme

On 13 December 2013 the Council of Australian Governments (COAG) decided not to proceed with national occupational licensing (NOLS).

Most jurisdictions identified a number of concerns with the proposed NOLS model, including the potential costs.

States have instead decided to investigate alternative approaches that will increase labour mobility and deliver benefits to businesses and governments.

As a consequence of the COAG consultations, the States agreed to work together via the Council for the Australian Federation (CAF). The CAF will seek to develop alternative options for minimising licensing impediments, improving labour mobility and to manage the orderly disestablishment of the **National Occupation Licensing Authority** from early 2014.

It is understood the CAF will not be considering property occupations.

Land Valuers and Landgate's new Property Interest Report

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Issues

As you will be aware, Articles 1.3 and 1.4 of the Licensed Valuers Code of Conduct (the Code) require valuations to be carried out with diligence and competence in accordance with the accepted principles and practices of valuation. Land valuers are required to take all reasonable steps to ascertain and verify relevant facts and information that will allow them to provide a professional property valuation.

The Department of Commerce's (the Department) view is a prudent land valuer will be aware of the types of information available through a PI report. PI reports provide relevant information that is likely to influence the use of a property and its

value. In short, the presence or absence of interests specified in a PI report has the potential to increase or decrease the material worth of a property.

While a PI report brings together a wide range of material, there will be other important pieces of information relevant to a land valuer's client. This will include information on the Certificate of Title (CoT) such as the dimensions, area and location of the land. The Department therefore recommends land valuers conduct a CoT search for each valuation completed (please see **Issue 3 of Land Valuers News**).

As is currently the case, it will be up to the land valuer to assess whether accessing a PI report will be relevant to a specific valuation. However, the Department will

continue to expect that the requirements of the Code to 'gather sufficient data' and 'ascertain and verify such relevant facts and information as [is] prudent' are met in this context.

A land valuer must take all reasonable steps to ascertain and verify relevant facts and data. Having taken all reasonable steps, a failure to ascertain relevant facts and data **must** be disclosed in the valuation report. Furthermore, the effect of **not** establishing the relevant information **must** be noted in the valuation.

The combined effect of this obligation is that the most pragmatic solution to demonstrate a land valuer has taken 'reasonable steps' may be to obtain a PI report.

Department investigations and the Code of Conduct

One of the Department's functions is to investigate complaints received from members of the public in relation to valuation work carried out by land valuers. While carrying out its investigations, the Department may discover the complaint cannot be substantiated or is not within its jurisdiction. However, in examining the work of land valuers, it is not unusual for the Department to discover breaches of the Licensed Valuers Code of Conduct (the Code).

The most common breach is a land valuer failing to attach all of their client's instructions to the valuation report. Attaching a client's instructions provides a protection to the land valuer in that it ensures the basis of the valuation is mutually understood and confirmed. It may also be relevant to third parties who may be investing in the property to understand the context in which the valuation was made.

Other issues the Department has discovered while examining complaints include:

- failing to disclose in the valuation report that the land valuer did not personally inspect the property (as per rule 1.5 of the Code); and
- land valuers performing valuations beyond their competency (as per rule 2.7 of the Code).

A proactive visit by the Department is largely treated as an educational visit and an opportunity to discuss matters where non-compliance might be an issue (eg as per the examples above). If serious breaches are

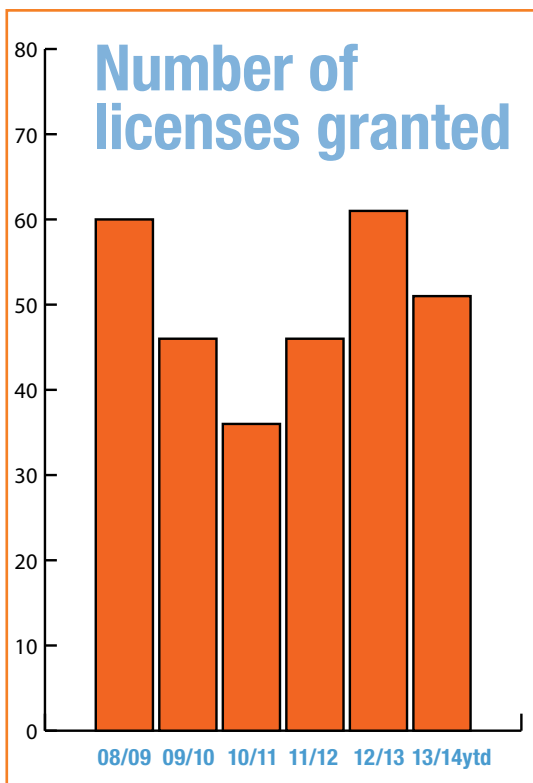
evident, a formal investigation may follow.

To limit the possibility of such an outcome, the Department urges land valuers to reacquaint themselves with all aspects of the Code and ensure they incorporate all of the requirements into their daily work practices.

A copy of the Code can be found on the Department's [website](#). The Land Valuers Compliance Handbook can also be found on the Department's [website](#).

Licensing and compliance statistics

As of 1 April 2014 there were 835 land valuers licensed to work in Western Australia. There have been 51 licenses granted since 1 July 2013.



The number of complaints about land valuers has decreased in recent years. However, the most common subject in recent complaints is a significant difference in the valuation figure provided by two land valuers for the same property.

Section 60 of the Australian Consumer Law requires land valuers to provide their services with due skill and care. Furthermore, Rule 1.3 of the Land Valuers Code of Conduct (LV Code) requires a land valuer to carry out their work with diligence and competence in accordance with the accepted principles and practices of valuation. Land valuers must also ascertain and verify the relevant facts and information in order to provide a professional valuation, as required by Rule 1.4(a) of the LV Code.

Land valuers are reminded they should not rely solely upon information provided by someone who may be an interested party, but make their own independent enquiries. It should be clear how a land valuer arrived at the figure or figures reported. Furthermore, for a robust valuation it may be appropriate to use more than one methodology of valuation.

It is also a requirement under the LV Code that a copy of the valuation report, all instructions from the client or the client's representative, and all other records and information upon which the valuation opinion was based are kept for a minimum of six years, as this can help reduce disputes. In one of the complaints investigated, the land valuer could not find a copy of the instructions from the previous year, which meant they could not prove specific instructions had been made.



Contact details

Since the Department's restructure on 1 July 2011, various functions previously performed by Board staff have been split to different directorates of Consumer Protection. In order for your enquiry to be handled efficiently, please note the following:

- If your query relates to your licence or registration, licence or registration application or the structure of your business, please contact Licensing on 1300 30 40 64, Option 2.
- If you need to inform the Commissioner of a change to your details, please email licensingenquiries@commerce.wa.gov.au. Please include your licence/ registration number.
- If your query relates to a proactive visit or a general enquiry about complying with legislation, please contact Proactive Compliance on (08) 9282-0874.
- For newsletter or e-Bulletin subscription enquiries, email pinews@commerce.wa.gov.au
- Consumer Protection's general contacts should be used for all other issues. You can telephone 1300 30 40 54 or email consumer@commerce.wa.gov.au

E-Bulletins

The Department publishes Land Valuer e-Bulletins which provide the industry and other interested parties with news and up-to-date information on the Department's policy developments.

Our e-Bulletin archive can be found on the Department's **website**.

If you would like to subscribe to our e-Bulletins, update your email address or if you have any queries, please email pinews@commerce.wa.gov.au

Website

The Department's website is an integral tool in providing education and advisory services to industry participants and the public.

The website has a dedicated section for land valuers that covers a range of subjects including proactive compliance and licensing information. It is also contains a wide range of application forms.

The Department's website is currently being completely redesigned. The new look website is expected to be deployed in June 2014. Comments on the website can be sent to pinews@commerce.wa.gov.au

The website is located at:
http://www.commerce.wa.gov.au/ConsumerProtection/Land_Valuers