

# ALPA SUBMISSION

Motor Dealers & Chattel  
Auctioneers Bill 2013  
Submission 002

## Bills to split the *Property Agents and Motor Dealers Act 2000* into four separate Acts

**TO:**

Legal Affairs and Community Safety Committee  
Parliament House  
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## Introduction

The Australian Livestock & Property Agents Association Ltd (ALPA) submission is in response to the Legal Affairs and Community Safety Committee's invitation for written submissions regarding the repeal and split of the *Property Agents and Motor Dealers Act 2000 (PAMD Act)*.

ALPA is the national peak industry body for livestock and property agents. ALPA represents more than 1,200 agency businesses across Australia. Collectively this group plays an important role in livestock, wool, merchandise and rural property sales and marketing. ALPA members handle in excess of 97% of rural agency business Australia wide.

ALPA is one of the largest national organisations of small rural business men and women relied on to protect the interests of agents and producers nationally.

ALPA appreciates the opportunity to provide this submission.

## Objectives of the Motor Dealers and Chattel Auctioneers Bill 2013

The Queensland Parliament website lists the objectives of the *Motor Dealers and Chattel Auctioneers Bill 2013* are to:

1. *Contribute to the repeal and split of the Property Agents and Motor Dealers Act 2000 (PAMD Act) into four separate Acts, with an Act to comprehensively provide for the regulation of the activities, licensing and conduct of motor dealers, chattel auctioneers, and their employees and to protect consumers against particular undesirable practices.*
2. *Reduce red tape and regulatory burden for motor dealers and chattel auctioneers.*
3. *Improve the operation of the legislation for the motor dealing and chattel auctioneers sectors.*
4. *Address the preference of the auctioneering industry that all auctioneering functions remain authorised by licence.*
5. *Prevent identified participants of criminal organisations from holding or obtaining motor dealer licences or registration certificates.<sup>1</sup>*

This submission will address these objectives.

**1. Contribute to the repeal and split of the Property Agents and Motor Dealers Act 2000 (PAMD Act) into four separate Acts, with an Act to comprehensively provide for the regulation of the activities, licensing and conduct of motor dealers, chattel auctioneers, and their employees and to protect consumers against particular undesirable practices.**

ALPA's position remains unchanged and **does not support** the segregation of the practice of auctioneering into the industry specific Acts. An auctioneer is an auctioneer and should not be defined by what is being auctioned.

As the peak industry body representing auctioneers who auction both livestock (chattels) and property (real estate), ALPA is extremely disappointed that our continued objection to the introduction of a dual auctioneer licensing regime has been ignored. What is more concerning is the perceived lack of understanding as to the number of existing auctioneers this will impact.

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<sup>1</sup> <http://www.parliament.qld.gov.au/work-of-committees/committees/LACSC/inquiries/current-inquiries/MotorDealers2013>

From the various government transcripts of related publications to do with the Bills there are several references to “**some** individuals and businesses” that will be disadvantaged by the dual licence. ALPA is concerned with these purported minimal impacts. From ALPA membership details alone, we can account for in excess of 160 livestock businesses that will be directly impacted. As these figures are only representative of ALPA member businesses and do not reflect individual auctioneers, the impact will obviously be far greater in the wider auctioneer community.

Pastoral House auctioneers will need to be transitioned across to a dual auctioneers licence. It must also be stressed, as a matter of clarification there are only two Pastoral Houses operating in Queensland – Landmark and Elders and their associated branches. There is often the misunderstanding that Pastoral Houses and livestock and property agents are one and the same, which they are not. Based on this, the impact will be far greater than the number of affected Pastoral House auctioneers.

The point we are trying to make and that is continuously overlooked is that – businesses and individuals aside – this affects an entire profession. As livestock and property auctioneers, the very nature of the business necessitates these auctioneers to act in the dual capacity as property (real estate) and livestock (chattels) auctioneers. It is not a question of which auctioneers licence they would retain, for as the job description of livestock and property auctioneer implies, the licences are mutually exclusive. The dual licensing proposal is akin to suggesting a doctor must hold separate licences for the top of the body and the bottom of the body. The ludicrousness of such a proposal is no different for a livestock and property auctioneer.

Further evidence of the lack of appreciation of the true impact of a dual licence is the fact when the Hon. JP Bleijie presented the Property Occupations Bill to Parliament on 20 November 2013 there was no mention of the requirement for a second auctioneer’s licence due to the splitting of the current legislation and the impost this would be on the affected licensees. ALPA acknowledges that the issue of dual licences was referenced in the presentation of the Motor Dealers and Chattel Auctioneers Bill, however this does not negate the fact that the issue should have also been raised when the Property Occupations Bill was presented. Such an omission is misleading as to the true impact on businesses, individuals and an entire profession.

## **2. Reduce red tape and regulatory burden for motor dealers and chattel auctioneers.**

ALPA refutes how the objective to reduce red tape and regulatory burden can be met when the imposition of a second auctioneers licence and cost is proposed. Under current legislation there is no differentiation between auctioneers, which is indicative of the REAL world – an auctioneer is an auctioneer, regardless of what they are auctioning.

The requirement for the livestock and property auctioneer profession to hold two auctioneer licenses can only result in increased red tape, costs and regulatory burden for licensees, their companies and the government.

The implication, as per the following statement that cost maybe the only negative impact for dual licensees is misleading: “Importantly, licensees that may require more than one type of licence to conduct activities they were previously authorised to perform under one licence will be provided with a licensing fee concession to

mitigate any negative impacts associated with transition for those licensees (i.e. auctioneers and pastoral house licensees)."<sup>2</sup>

To illustrate the unnecessary red tape and regulatory burden following are some examples:

### **New auctioneers**

To become a livestock and property auctioneer the individual will need to apply for two licences which will require:

	<b>Individual</b>	<b>Government</b>
Lodgement of 2 applications	✓	
Processing 2 applications		✓
Paying for 2 criminal history checks	✓	
Conducting 2 criminal history checks		✓
Completion of additional training modules	✓	

Besides the duplication of processes outlined, ALPA has real concerns with regards the last point in relation to additional training and the associated costs.

Regardless of best intentions to enforce recognition of prior learning and the need to complete certain training modules for each licence category, there is a real possibility that some training organisations will manipulate the system and introduce two training structures for the respective licences which will increase the cost.

This point is strengthened by the statement that "the proposed split of auction functions across industry lines will facilitate streamlined training requirements"<sup>3</sup>.

ALPA does not refute there is an advantage for a chattel auctioneer to only complete training competencies applicable to this licence. This does not however alleviate the cost concern for a dual licensee who will be required to complete the so called streamlined training requirements.

### **Existing auctioneers**

Existing licence holders will be burdened with the ongoing renewal of two licences. Their situation will be exacerbated if the licences have differing renewal dates. The department will have the responsibility to issue and manage the renewal process for two licences.

At all times livestock and property auctioneers will need to be familiar with the requirements of two separate pieces of legislation to conduct the one professional activity; that is, auctioneering.

ALPA acknowledges that the government has acquiesced "that where a licensee wishes to apply for multiple licenses, or seeks to renew or restore multiple licences, they will only be required to pay one licence issue fee component."<sup>4</sup>

The need, however to charge an administration fee "to ensure recovery of costs associated with administering the licenses"<sup>5</sup> is utter red tape madness. Red tape has been created due to this administration blunder. The administration fee is applicable only due to the second licence needing to be legislatively administered.

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<sup>2</sup> Parliamentary Committee Briefing Note for the Legal Affairs and Community Safety Committee, Attachment 1, Property Occupations Bill 2013, 9 December 2013, p2.

<sup>3</sup> Parliamentary Committee Briefing Note for the Legal Affairs and Community Safety Committee, 9 December 2013, p5.

<sup>4</sup> Motor Dealers and Chattel Auctioneers Bill, Explanatory Notes, p10.

<sup>5</sup> Motor Dealers and Chattel Auctioneers Bill, Explanatory Notes, p10.

### **3. Improve the operation of the legislation for the motor dealing and chattel auctioneers sectors.**

ALPA strongly refutes the following statement when it comes to auctioneers: "industry groups will benefit from having legislation and obligations that are specific to their line of business. In addition, industry-specific Acts will mean future legislative reforms will be more responsive to marketplace changes in each industry"<sup>6</sup>.

Again ALPA would like to reiterate, for the livestock and property auctioneer profession there is no "specific line of business" or "each industry" for these auctioneers, as it is all inclusive. Therefore there is no benefit. There is in fact only hindrance in that these auctioneers will need to be familiar with the requirements of two separate pieces of legislation.

As to legislative reforms, ALPA has concerns for the ability of future legislative amendments to be uniformly carried across to the respective area in the separate pieces of legislation, to ensure consistency.

### **4. Address the preference of the auctioneering industry that all auctioneering functions remain authorised by licence.**

ALPA was and still is a strong advocate for maintaining a licence for all auctioneering functions and is grateful that a licensing framework for chattel auctions has been re-instated. In our support for an inclusive licence for all auctioneering functions, under no circumstances did the Association either suggest or support the creation of separate auctioneer categories. It is our very strong opinion that auctioneering is a profession and should not be categorised by what item is being auctioned.

### **5. Prevent identified participants of criminal organisations from holding or obtaining motor dealer licences or registration certificates.**

ALPA agrees to this and has no further comment with regards to this objective.

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<sup>6</sup> Motor Dealers and Chattel Auctioneers Bill, Explanatory Notes, p3.

## Recommendations

Based on ALPA's strong opposition to the introduction of a dual licensing regime, the following recommendation to address the concerns that have been raised above is as follows:

- ALPA recommends that a Property Agent Auctioneer Licence be considered an open or unrestricted auctioneer licence which would entitle the bearer of this licence to auction everything, that is, property (real estate) and chattels (livestock). If an auctioneer intends only to auction chattels then they would hold a Chattel Auctioneer Licence only, which would not permit the auction of property (real estate).

There are proven means that legislation can be drafted to accommodate this recommendation. Case in point is where both the *Property Occupations Bill 2013* and *Motor Dealers and Chattel Auctioneers Bill 2013* both refer to the *Agents Financial Administration Bill 2013* with regards meeting trust account requirements. Surely something similar can be done for auctioneers.

This recommendation addresses many of the concerns that were raised previously, in particular:

- Streamline the application and renewal processes for an auctioneers licence;
- Reduce the associated red tape and administration costs, therefore negating the introduction of an administration fee to mitigate the increased cost;
- Consolidate training requirements, thereby reducing costs and more red tape.

## ALPA Stakeholder Conclusion and Position

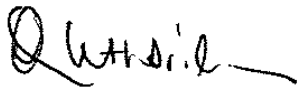
ALPA appreciates the opportunity to provide this submission on behalf of our members to ensure their position is heard and understood.

The proposal to segregate the practice of auctioneering into industry specific acts is not supported due to its impracticality. For auctioneers who routinely auction livestock and property, this is their industry, and it is implausible that they be burdened with additional regulatory requirements and cost in order to accommodate such an unfair and unjust separation of their profession.

An auctioneer is an auctioneer and they are not defined by what is being auctioned. Therefore, ALPA strongly stands behind our recommendation to consider a Property Agent Auctioneer Licence, to be an open or unrestricted auctioneer licence which would entitle the bearer of this licence to auction everything, that is, property (real estate) and chattels (livestock). If an auctioneer intends only to auction chattels then they would hold a Chattel Auctioneer Licence only, which would not permit the auction of property (real estate).

Thank you for considering this recommendation and we would welcome the opportunity to discuss further prior to finalisation of the Bill.

Yours faithfully



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