LEGAL AFFAIRS, POLICE, CORRECTIVE SERVICES AND EMERGENCY SERVICES COMMITTE

Members present:

Hon. D.M. Wells MP (Acting Chair)
Mr J-P. H. Langbroek MP
Mr J.P. Bleijie MP
Mr C.J. Foley MP
Mrs B.M. Kiernan MP

Staff present:

Ms A. Powell (Research Director)
Ms A. Honeyman (Principal Research Officer)

PUBLIC HEARING - EXAMINATION OF REFERRED BILLS

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 24 AUGUST 2011

Brisbane

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Committee met at 10.11 am

ACTING CHAIR: Colleagues, ladies and gentlemen, good morning. I declare this public hearing for the examination of bills open. Thank you very much for your interest and for your attendance here today. First I acknowledge the traditional owners of this land, their elders past and present and the custodians of the sacred lands of our state. The Legal Affairs, Police, Corrective Services and Emergency Services Committee is a statutory committee of the Queensland parliament and as such represents the parliament. It is an all-party committee which adopts a nonpartisan approach to its inquiries. Before proceeding further, I would like to introduce the members of the committee present today: John-Paul Langbroek, member for Surfers Paradise and deputy chair of the committee; Jarrod Bleijie, member for Kawana; Chris Foley, member for Maryborough; Betty Kiernan, member for Mount Isa; and Julie Attwood, member for Mount Ommaney. I am Dean Wells, the member for Murrumba and Acting Chair of the committee. Barbara Stone MP is the chair of the committee but is unable to attend due to illness.

On 17 June 2011 the parliament referred the following four bills to the committee for examination and report to the House: the Property Agents Bill 2010, the Motor Dealers and Chattel Auctioneers Bill 2010, the Commercial Agents Bill 2010 and the Agents Financial Administration Bill 2010. If passed, the bills propose to split the current Property Agents and Motor Dealers Act 2000 into industry-specific acts along with an act covering the administration of trust accounts. This is the second public hearing of the committee on this matter. The first was on 3 August 2011. The committee is required to report to the House by 19 December 2011. The committee advised the public of the examination by releasing an information paper and by advertising in the print media, on the committee's website and also by writing directly to a number of individuals and organisations. The committee business section of the parliament of Queensland website also provides information on the business before each committee before each sitting week.

I stress that the committee is undertaking an examination process on behalf of the parliament and has as yet made no recommendations nor put forward any proposals. The committee is being assisted in its examination of the bills by advisers from the Department of Justice and Attorney-General. If you knew all that, and I suspect that many of you did, sorry to repeat it. If there are any members of the public here, I thought you might just like to hear me say it. With regard to this hearing today, the committee's proceedings are lawful proceedings and are subject to the standing rules and orders of the Queensland parliament. I ask all people present to turn off mobile phones or put them on silent. In the unlikely event of the need to evacuate, please follow staff directions. Members of the public are reminded that they are here to observe the hearing and may not interrupt the hearing. In accordance with standing order 208, any person admitted to this hearing may be excluded at the discretion of the chair, to the extent that the chair may have any discretion, or by order of the committee. Representatives of the media may attend and may record the hearing. So we are going to start with a departmental briefing. The really new thing for people here who are not members of the executive arm of government is that this is happening in public. So I will ask first that we hear from the departmental officers.

CLAYTON, Ms Julia, Team Leader, Office of Regulatory Policy, Department of Justice and Attorney-General

IRONS, Mr Chris, Director, Office of Regulatory Policy, Department of Justice and Attorney-General

REED, Mr Philip, Director-General, Department of Justice and Attorney-General

ACTING CHAIR: Colleagues from the department, may I hand the floor to you.

Mr Reed: Thank you very much. What we thought we might do is reflect a little bit on the hearing of 3 August and then go through some of the technical issues that might emerge today as you go through your public hearing. From the hearing on 3 August it was clear to the department that there was broad support for the four bills being considered and for the approach the bills take in splitting the current act into four. Of particular interest to me was Professor Bill Duncan's measured and well-considered overview of the legislation and its limits. As Professor Duncan noted, legislation cannot cure all and there is only so much that the government can do to provide for consumer protection. This approach is reflected in the Property Agents and Motor Dealers Act 2000 and the subsequent four bills within that act. I do not propose to go into any further details on the issues raised in the last hearing. Clearly, that is something that you have asked us to do subsequently.

I do note, however, that there was considerable discussion about the role of warning statements and the notion of commercial as opposed to residential and the training requirements for real estate agents, and these are clearly not new issues. Some of these, notably the warning statements, were the subject of

considerable consultation and amendment in 2010. The challenge then, as it is now, is to strike a balance between appropriate consumer protection and not imposing too many administrative burdens on agents, lawyers, buyers and sellers. Warning statements play a vital role in reminding consumers that when they enter into a contract to buy real estate they are about to enter into a significant transaction and it is essential that they seek independent advice before making any commitment.

The four bills, particularly the Property Agents Bill, continue the reforms which commenced in October 2010 in relation to warning statements—namely, a simplification of the process for delivering and presenting residential real estate contracts. Those October 2010 reforms were again as a result of the former Service Delivery and Performance Commission recommendations, as we discussed at the last hearing. I note also that the committee at the last sittings had queries in relation to the licence category of property developers, a category which will no longer be licensed under the four bills. I have subsequently written to the committee's research director on this matter—and I assume you have a copy of that—which summarises that at 18 August there were 1,113 property developer licences. The licence fees vary according to licence type and term. But, by way of an example, a new application for a one-year term for an individual is currently $1,124.50, so the total annual fees that will be foregone based on the average of previous years' figures is $345,985. So that is just to finalise that matter that got raised in the last hearing.

If we now look at today's hearing, clearly you are going to hear from a diverse range of witnesses on these matters. We will give you some brief technical advice on some of the areas likely to be raised and then if there are any technical questions I am quite happy for either me or the other departmental officers to address those. It is likely that today you are going to have issues raised about auctioneer licensing and auctioning, be it property or chattels, is a method of sale the government regulates because it is a method of sale consumers and vendors do not use on a regular basis. Therefore, they are not always as familiar as they should be about some of the unique features of auctions.

Under the four bills being considered, there will be two types of auction licences—one for real property and one for chattels—and this is a change from the current arrangements. This change implements the findings of the former Service Delivery and Performance Commission and ensures that consumers and vendors will be protected in all types of auctions. This licensing arrangement can also suit the auctioning sector. A number of real property auctioneers would not be interested in or not have the requisite expertise to conduct an auction of, say, coins, stamps, livestock or other types of chattels, and of course the reverse is also true. Chattel auctions have been combined with motor dealer requirements in one bill as the conduct requirements for both licence types are similar. As a way of reducing red tape, the bill provides that in the event where there is an auction of real property and chattels occurring at the same time—for example, a clearing auction where a house may be sold along with its contents—only one licence is required.

Witnesses today may also raise issues about residential letting agent licences, also known by some as restrictive letting agents or resident unit managers. Resident letting agents, as the name suggests, perform the same type of duties and have similar responsibilities to a fully licensed agent but are restricted to the collection of rents at a specified community title scheme or schemes. This may also be known as holiday letting. This type of agent is appointed by the body corporate of the scheme and one of the conditions of the licence is that the agent must reside on site. As well as performing real estate duties, a resident letting agent frequently also has a role in the tourism industry, being the primary point of contact for tourists staying at holiday apartments. Queensland is generally recognised as having Australia's most sophisticated community titles scheme arrangements and the evident links between tourism and the resident letting agent are something the legislation aims to recognise.

Finally, witnesses may touch upon issues regarding real estate commissions. The government has recently announced the intention to deregulate residential commissions, bringing Queensland into line with other states and territories. The Attorney-General made clear in his statement to parliament in June that deregulation would only occur provided that consumer and vendor protection was not compromised. One way this may occur is giving QCAT a role in hearing and determining claims of unfair or harsh commissions. While industry is generally supportive of deregulation, some agents may have concerns about the role of that tribunal in this regard, and this is a point that may be raised by witnesses today. The details of the deregulation model are being finalised, but the government has indicated it has no intention of denying agents their rightful commission. With all of these points of mind, I look forward to hearing today's deliberations. If there are any questions, I am happy to answer them.

ACTING CHAIR: Thank you very much, DG. I wanted to ask you, firstly, does the department have a view on the issue that was raised at the public hearing. Professor Duncan indicated that his thought was that the cooling-off period should begin at a different time from some of the other witnesses. Has the department got a view as to when the cooling-off period should begin?

Mr Irons: The point that Professor Duncan raised at the last hearing is a point that has been raised by various stakeholders over the years, particularly going back to the amendments that were made to the Property Agents and Motor Dealers Act which commenced in October 2010. So there was a significant consultation period and that was actually the first phase of the amendments that are the subject of the hearings today. I think it is fair to say that there are competing views depending upon where one sits in the industry about where the cooling-off period may commence and I think that the legislation reflects pretty much the best compromised point that came out of that consultation process. So that is where it sits at the moment.

ACTING CHAIR: The view which recommends itself to me initially is that it should begin at a point dictated by Justice. It seems to me—this is my prima facie view; please tell me if there is something I am missing here—that if somebody has not got a copy of the contract then it seems unjust that the cooling-off period should begin. It should first of all be the case that the second party has received and signed the contract before the cooling-off period begins, otherwise you can get all sorts of mistakes happening like, for example, they are deemed to have received the contract but they have not got the contract and so a cooling-off period begins before they have been able to read all of the fine print or whatever. So it seems to me to be most just that the cooling-off period should begin at the moment that the second party has signed the contract. Is there some flaw in my thinking here?

Mr Irons: I think it is a fair point that you make, so I would not say it was either right or wrong. I think it is a fair point. The only thing I would say is that there are differing views about that. There are differing interpretations about when the cooling-off period does start, so the provisions that currently sit in the Property Agents and Motor Dealers Act and which are carried over into the Property Agents Bill are the result, I suppose, of consultation and the amendments that took place. So the provisions as they stand is where things got settled at that point, but what you are saying is a fair point as well.

ACTING CHAIR: Chris, can you recite or refer me to the provisions? I have not got it in front of me—that is, the provisions that we are implementing with the rewrite?

Mr Irons: Off the top of my head I cannot, but we will find those now.

ACTING CHAIR: I am not sure which section it is, so if you could come back to me.

Mr Irons: Yes.

ACTING CHAIR: Does anybody else have questions of the departmental officers?

Mrs KIERNAN: This is a follow up from the previous consultation with the REIQ. I understand that documents have been sent over to the department—and this is to do with that cooling-off period and the warning statement—and they have furnished through the request from the previous hearing a mocked-up contract where it states pretty clearly about the cooling-off period in terms of when and how. I am not getting from the detail between the PAMD form 30c warning statement and this contract how they have put the requirements of the legislation into this. Is that exactly in line with what is required?

Mr Irons: Just a point of clarification I suppose, is that the legislation only regulates the way in which the contracts are delivered and presented. The legislation does not actually regulate the form of the contract itself. So with regard to the contract that you have there and the mock-up that the REIQ subsequently provided following the hearings from last week, it is probably fair to say that most vendors and purchasers in Queensland would be familiar with an REIQ contract. That would be used, I would venture to say, in the majority of cases. It is certainly not compulsory and parties are free to draw up whatever contract they like provided it meets the requirements of the legislation. So that is just an important clarification point to make in the first instance.

As I understood it from the last hearing—and I am happy to be corrected on this point—the REIQ was making the point that at the moment you actually have some distinct portions. You have the contract, which is their product, and then you have a warning statement, which is what the government obliges upon the agent or the seller in this case. So the REIQ, as I understood it, was making the point that they would perhaps prefer a situation in which the two things were combined in the one document rather than attached to each other. So, yes, you are right: we have received that via the committee—that is, their mock-up of that—and we are just having a look at that at the department at the moment to, first of all, verify that it meets the requirements of the legislation as it currently sits. Then I suppose the next step after that would be to look at whether or not that is going to satisfy the overall objectives of the legislation in terms of consumer protection as well.

Mrs KIERNAN: It appealed to me to have this statement attached to the contract upfront. In all honesty, if you have sought legal advice, you expect them to be reading all the fine details. It is like your insurance or anything else that has reams and reams of clauses. Who reads them? But it appealed to me that this statement was right upfront. Irrespective of whoever drafts something different as in another form of contract, I think for the average person on the street going into this sort of commitment this is presented in a way that is upfront as in, 'They are the most important things I need to know right now.'

Mr Irons: The only other thing to add there is, again, the legislation as it currently sits provides certain obligations about forms and the method by which the forms are presented. So if the government then took a view that a combination as per the mock-up—or any other mock-up for that matter—was appropriate, then it would have to consider how the legislation would have to be adapted to suit that situation. But that is a decision for government obviously.

Mr Reed: We have the section of the act.

Mr Irons: In the Property Agents Bill, clause 172 is what you are looking for there, and that is on page 138 of the bill.

ACTING CHAIR: Thank you. I have it. It is pretty close to what Professor Duncan was saying anyway.

Mr Irons: I think so, yes.

Mr LANGBROEK: I wanted to refer to that issue about the cooling-off period and seek some clarification about whether these amendments are now going to remove that ambiguity that Mr Irons was referring to—an ambiguity that a court ends up having to make a decision on. This is the opportune moment, as I think you have made the point, to make the maximum amount of justice and the least amount of ambiguity. I am seeking clarification as to whether these amendments are going to get rid of that potential ambiguity.

Mr Irons: The Property Agents Bill as it sits before you at the moment is effectively a cut and paste of the Property Agents and Motor Dealers Act—what it is at the moment. The Property Agents and Motor Dealers Act had those amendments which commenced in October 2010—and they are called the chapter 11 amendments, which you are referring to here. Those amendments are, in effect, replicated here in the Property Agents Bill. So I think the short answer to what you are saying is no, because the task in front of us was simply to split the bill into its four component bills.

Mr Reed: Clearly it is a matter for committee deliberations. The government position is as it is in the bill at this point.

ACTING CHAIR: The member for Surfers Paradise from his own electorate background is aware of litigation around this. Has the department turned its mind to a redrafting of this that would minimise the impact of litigation?

Mr Irons: The department is always cognisant of any litigation that goes on to do with any of the legislation that is part of the department's portfolio. Necessarily it has to be. It has to examine what impact those decisions might eventually have on the operation and indeed what the judgements say about the construction of the legislation. Again, it is important to note that not every case necessarily applies broadly to the legislation. Some cases are very much decided on their own—you would know this yourself of course. They are decided simply on their own facts and on their own circumstances and do not necessarily have broader application. But the short answer is yes. If there is litigation about a provision of any of the acts that are administered in the portfolio, then necessarily we have to be mindful of what the outcome of that litigation is and what impact it has down the track.

Mr BLEIJIE: I have a question to Mr Irons about 30c warning statements. Upon request, the committee got the RACQ to do a mock-up version. The issue I expressed at the last committee hearing was that you have the warning statement, which at the moment is a two-page separate document which has to be attached to the contract. The other issue is that, upon the buyer signing the offer, the seller signing it and then the seller returning it to the buyer, you have to draw the attention of the warning statement to the buyer on two occasions—first, when the buyer signs the contract and, second, when it goes to the seller and then upon returning the fully signed contract they have to draw attention, either verbally or in writing, to the warning statement that the buyer has signed prior.

When we talk about consumer protection—and correct me if I am wrong—one of the most litigated matters with these contracts is that the warning statement was not drawn to the attention of the buyer in the first instance or the second instance. Surely it would be sufficient for a buyer to sign a big thing that says 'warning' on the top of it. If we are wanting to cut red tape, wouldn't it be the view that you would just get rid of having to draw their attention to it, considering the fact that they have signed the document that has 'warning' at the top of it?

Mr Irons: I think, again, what you are saying has its own set of merits. If we take it back a bit more broadly to the objectives of the legislation—there are a few different objectives—primarily the legislation is about consumer protection. Particularly when we talk about real property, we are talking about protection in the context of what for many people will always be the most significant financial transaction they will ever have in their life. So what you are looking at there—and it is an issue that Professor Duncan touched upon in his evidence last week—is how far one goes in protecting consumers in those situations. How much should we give them? How much should we oblige on the parties to the transaction to protect them? I guess the warning statement is how government has ultimately decided that it will do that. That is the method by which it has decided to make that protection to this point in the equation, and that is the method which has ended up in the Property Agents Bill.

Mr BLEIJIE: Of the witnesses we had—the REIQ, Professor Duncan, the Law Society and the last witness and I cannot recall his name—

Mr Irons: Tom French.

Mr BLEIJIE: Yes—I asked the same question: would you as an industry support the warning statement being embedded into a particular contract as the first page and also then deleting the requirement to draw attention to the statement? All agreed. So I just want to get some clarification about what the department is going to do with that, when you have four witnesses in the first hearing all agreeing.

Mr Reed: Perhaps I could say that really that is a question for the committee to deliberate on. Clearly you are considering these bills at the moment and looking at whether the bills as they stand are sufficient, to use that word. Therefore, that is a question that we believe ultimately you need to get an agreement on, and obviously government then needs to consider that.

ACTING CHAIR: It being 20 minutes to 11, I ask honourable members if they could reserve any further questions they have for the department until 12.15 pm. It is time now to invite the Auctioneers and Valuers Association of Australia to come forward. I thank colleagues from the executive arm of government for their attendance and for their assistance.

EATON, Mr Geoff, Director, Auctioneers and Valuers Association of Australia Inc.

CHAIR: We welcome Mr Geoff Eaton, the Director of the Auctioneers and Valuers Association. Geoff, I think you know who these people are now.

Mr Eaton: I do indeed. Thank you very much to the committee for their time today. As an overview, the Auctioneers and Valuers Association was incorporated in 1952, and the association has represented auctioneers of goods, chattels, plant and equipment throughout Australia since that time. We do believe that we are the peak body in our industry. As you are probably aware, we are not a big industry. We have approximately 400 members Australia-wide. But that incorporates everyone from jewellery through to heavy machinery and marine and mining equipment. The comments that I will be making today are the basis of meetings with our membership—one as recent as this Monday in Queensland—regarding mostly the split to the goods and chattels auctioneers licence. So if I can begin with education of licensees.

We believe that if there is a reason to separate out auctioneers from real property into goods and chattels, then the goods and chattels licence itself must be able to stand on its own two feet. So obviously the education behind that licence is going to need to change from what is currently offered. What is currently offered is very heavy towards real property, as you can imagine. It is our view that if this licence is to go ahead then education modules are going to have to come into play that are going to reflect the broad nature of goods and chattels. So we are now going to be licensing auctioneers to sell artworks all the way through to selling mining equipment, such as drag lines et cetera. There is a whole raft of legislation differences between the sale of those two assets, especially with art—legislation is coming with Australian art pieces when they are sold. So we think that, if that licence is to exist, future licence holders are going to need to be educated about that information. We believe that that is going to present a couple of problems, which I will outline in just a moment.

As far as consumer protection is concerned, trust accounting absolutely should remain—that is our point of view—inside the act. The provision for formal appointments again should remain, but the nature of the work that goods and chattels auctioneers do is often for repeat clients on a monthly, yearly and sometimes even daily basis. So at the moment the paperwork—if it is read to the letter of the law—can be very heavy to our appointees, to our clients. We are having to send off PAMD forms every time we conduct an auction to get permission to sell those assets. Quite truthfully, if I can use the insolvency industry as an example, most of our members will work for particular insolvency firms, and they will have done so for a long time and they will be doing it on a repeat basis. So we would like the committee to consider changing the appointment documentation in the legislation so that continuing appointments can be allocated to goods and chattels auctioneers. I understand that that is going to be different to real estate, because real estate sales are often one-off events. But that is something that we would like considered in the legislation—a change to the appointment documentation—if it goes ahead. In regard to code of ethics, I understand that is pretty much a cut and paste of what currently exists which we have no problem with. We are fine with that.

In terms of the costs of licensing, we are now going to have two licences. With the grandfathering clause that is going to come in, it is our understanding that current auctioneers will have a choice as to which licences they will hold—whether they will continue to hold a real property licence and a goods and chattels licence into the future. I would be surprised if any of our members opt to drop one of those qualifications considering the amount of the fee involved in the licence. So the proof will be in the pudding, for want of a better phrase, as to which way it evolves.

Mr FOLEY: In the case of something like vehicle auctions, which happen every day—cars coming through at the same venue—what are your comments on that in terms of this?

Mr Eaton: Honestly—you will have the motor industry here I imagine today to outline their specific concerns as to how the appointment documentation should be run—I imagine that it will be exactly the same. They will be selling cars for individual vendors. They will also be selling cars on a repeat basis for government departments and larger private firms. So I would imagine that they would be looking for less red tape and an easier appointment process there as well.

In terms of recognition and national licensing, the association feels that the goods and chattels licence is somehow being borne out of a push to decide because of the national licensing program that is coming in for real property. This comes back to the education process. If we are going to say that auctioneers of goods and chattels have a different skill set from auctioneers of real property, then the education needs to be there. But if we do that—and I will jump forward from here—if we are going to create those education programs so that people enter our industry as licensed goods and chattels auctioneers, as an association we want to have them as our members. So we want them to be qualified.Our concern is that there is simply not going to be the volume of applicants to support the actual running of the education programs to get third party—the RTOs and the suppliers of the programs—to actually take up that course.

At a roundtable meeting of our members here in Brisbane, which was representative of most of the large auctioneering firms that you all know here in town, the simple question was asked: 'How many new auctioneers entered your firm last year?' I know in our firm we put through one and not a single from the others. So the concern is that we go down the path only to have a very small take-up on a state basis for the actual licence.

That is further compounded—and this will be probably one of my last points—in that there has been a big influx of online auctions. Every major auction house now runs a lot of sales online. Our biggest auctioneering firm in Australia now runs no traditional auctions unless it is under a specific request from their instructing party. They are completely online. In saying that, there is confusion as to whether the online realm is going to be regulated under the legislation or whether it is going to be pushed to the side. We are of the belief that if we are going to have the legislation changed, then now is the time to start addressing the online issue.

It is very difficult. We realise that. E-commerce is something that every industry is struggling with, but we have firms here in Queensland having to meet the requirements of the legislation selling assets in Queensland online, we believe. We have firms from interstate—in deregulated states—not having to meet any legislation requirements, which we are competing against. Of course, we have large international firms from overseas who are subject to no legislation requirements whatsoever.

So we think there is merit in considering that the auctioneering licence should be looking in the future towards going to a national program. That will help alleviate the confusion on a state-by-state basis and bring us all under the one umbrella. We recognise that it is going to be very difficult to impossible to regulate overseas companies based offshore selling into Australia but, as a consumer protection point, we should be looking to protect consumers from unruly behaviour by Australian based companies. I have two main points: the commercial realities of actually implementing the licence and the take-up and the benefits of a national approach or even a cross-recognition approach of the auctioneering licence so that we can start to make some inroads into the online world

Mrs ATTWOOD: Can I just ask a question? Thank you very much, Geoff, for that summary of your issues. I just want to ask what percentage of auctioneers are actually online?

Mr Eaton: Online?

Mrs ATTWOOD: Do you have any sort of percentage?

Mr Eaton: It would only be my best guess, to tell you the truth. We do not have those statistics. But I would imagine by the end of next year every major auction house in Australia will offer an online facility.

Mrs ATTWOOD: So it would be completely right across.

Mr Eaton: Across-the-board. Most of them will offer both—traditional and online—but, yes, you will have every auction house for sure offering that facility purely through the pressure of their instructing parties requesting it.

ACTING CHAIR: Are there any further questions of Mr Eaton? There being no further questions, we thank you for your attendance and for your advice to the committee. Next we have the Australian Livestock and Property Agents Association.

MADIGAN, Mr Andy, Chief Executive Officer, Australian Livestock and Property Agents Association Ltd

ACTING CHAIR: Thank you very much for your attendance and for your advice to the committee. Would you like to make a statement?

Mr Madigan: Yes. Firstly, I would like to thank the committee for taking the time to take our submission and meeting with us today. The Australian Livestock and Property Agents Association is the peak national industry body representing more than 1,200 agency businesses and in a business there could be seven or more licensed people. So we are right across Australia. We find that what is proposed in Queensland is going to be against what is happening nationally under the NOLS program.

The strength of our national presence and representation has been recognised by our inclusion in the Property Agents Interim Advisory Committee responsible for providing advice to the COAG National Licensing Taskforce. At the state level, ALPAA received an invitation from the Hon. Peter Lawlor MP to be a member of the industry working group for consultation on the split of the Property Agents and Motor Dealers Act 2000 in occupation-specific laws. As the peak national industry body, we object to the proposed separation of PAMDA into occupation-specific laws. The nature of the business conducted by our members as stock and station agents as opposed to the real estate agent who is selling the town real estate cannot accommodate such a simplistic approach as what is proposed. Particularly of concern to us is the proposed introduction of a new licence category, being the chattel auctioneer's licence, which will be unique to Queensland under the NOLS, or NOLA proposal. Also, the licence transition from pastoral house licences will be quite difficult.

Under the national licensing system, the Council of Australian Governments—COAG—has agreed to the development of a national licensing system as part of its broader agenda for regulatory reform and all states and territories are signatories to this agreement, including Queensland. It is concerning to us that Queensland seems to be going a different way to bring up a different licence against what is happening with NOLS, or pre-empting what might happen with the national licensing, to bring in legislation and a new licence. COAG agreed to develop a national licensing system with the following characteristics: it was to be cooperative national legislation, which seems to be changing already; all current holders of state and territory licences to be deemed across to the new licence system at its commencement; and the establishment of a publicly available national register of licences, and that will not happen if Queensland goes the way it is going with its chattel auctioneer's licence.

COAG claims that the national licensing system will provide benefits to businesses and individuals by allowing a licensee to work anywhere in Australia without having to reapply for a licence when moving to another state. It will also assist consumers by providing easy access to information about who is or who is not licensed. The proposed introduction of a chattel auctioneer's licence goes completely against the intention of the national licensing system, which I have said already. It will not improve business efficiency and the competitiveness of the national economy, reduce red tape and improve labour mobility and enhance productivity, which in rural and regional Australia needs to be looked at very seriously.

ALPAA has grave concerns as to the path that the Queensland government is pursuing by separating the auctioneer's licence, making individuals who auction both real property and chattels now—and our biggest concern within the chattels is the livestock side, of course—to hold both a property and a chattel auctioneer's licence. By the very nature of our business as stock and station agents in Queensland, the majority of our members are auctioneers in a dual capacity. They sell the rural properties, they sell the town house in the village, or the city, and also the livestock and then do the clearing sales and the charity sales and all of that sort of stuff. So we find that having two licences under two different acts is quite prohibitive when there is one licence being recognised nationally and most other states will not be having the separate chattel auctioneer's licence. Nationally, it looks as if livestock will not be recognised as part of the chattels—if those states are going to have that. Livestock will come straight out of the NOLS, anyway.

The other problem that we see will be to preclude interstate auctioneers from coming up here to do any business. The way the livestock industry is at the moment I do not think that I need to tell anybody from Queensland the problems that are arising from what has happened with the excess cattle that are here that did not get to go on a boat. Those cattle will have to be sold somewhere and if they go through the auction system they could go into other states to be auctioned. They could stay up here to be auctioned. It could well be that the pastoral companies—the Elders and the Landmarks and the Ruralco. companies of this world that move staff—will not be able to accommodate problems like this, to bring an auctioneer up to Queensland, unless they have a chattel auctioneer's licence if this bill comes through. Those are our biggest concerns with the splitting of the bill.

There will be a lot of education to be done, as previous speakers have mentioned, to be able to sell all the chattels. I do not know how you would educate people to be qualified to sell every single thing that is classified as a chattel. I think that is just an impossibility. An auctioneer's role is no different from an actor in a play. Whether you are doing a musical or a serious play, the actor is the person up on stage. That is what the auctioneer's role is—to get the best possible price for their vendor client. That is all it is. It does not really matter what product they are selling; that is what they are doing.

There will be increased licensing costs, which I have said, and training requirements, which we are finding hard to do anyway in remote and rural Australia, let alone Queensland, being such a big area to travel. It is hard enough to find good training in the cities let alone before you go out into the rural areas, which is an impossibility. For some people to come to the cities, it is not just a day's course; it is probably a

day's travel there and a day's travel home and a day's course. So a day's educational training ends up being three days out of a person's business and most of our members are probably mum-and-dad businesses that if they are away from the office there is no-one else there to conduct the business.

Employment opportunities in the stock and station agency industry are much the same as were mentioned earlier by the valuers. There are not too many people coming into it. There are probably more people going into the mining industry and getting away from rural towns. This is a problem that we are having right across Australia. It is not just unique to Queensland. I think with the burden of increased training it is just not going to be inviting for young people to hold two licences and do two separate lots of training to do exactly the same job on the same day.

I note that in the proposed split that if an auctioneer sells the property they can do the clearing sale on the same day without having a chattel auctioneer's licence. That is putting the cart before the horse, because generally you sell the property and then you will have the clearing sale—probably weeks after. I do not think you could really advertise someone's goods and chattels for sale on the same day if you did not sell the property. Then you have sold all of their furniture. So where do they sleep that night? It really does not work that it should be on the same day. If a person can sell a property worth millions and millions of dollars, they should be able to sell a $2 box of bolts at the clearing sale straight afterwards.

We have provided a submission to the community consultation process and so have several of our members. We have also made similar submissions and to our knowledge none of these submissions have been acknowledged. Therefore, we strongly refute the claim that the PAMDA split has wide support from both industry and consumer stakeholders. We are the industry and we do not support it and our stakeholders, being members in Queensland, do not support it.

Our recommendations would be to wait for the completion of the feedback and consultation process of the regulatory impact statement for the national licensing system before you introduce a bill that may well put Queensland way out of line with every other state in Australia through a national licensing system. If a national auctioneer's licence is adopted, as per the national licensing system, please give some consideration to the proposal that if an individual holds a national auctioneer's licence then this would entitle the individual to the equivalent of an unrestricted auctioneer's licence in Queensland. If the individual only auctions in Queensland and does not want to travel anywhere else, fine, let them get a licence in Queensland. To provide an analogy, a truck driver undertakes the necessary training and associated costs to be issued with a heavy vehicle licence and this entitles that driver to drive manual and automatic cars and trucks throughout Australia. If you only want an automatic car licence, that is what you apply for and that is what you are allowed to drive. So ALPAA would suggest that if a national licence is recognised as adequate to sell multimillion-dollar properties around Australia, then it should be regulated in Queensland to be able to sell livestock and other goods and chattels of that nature.

With the discussion on online auctions, there are so many online auctions coming on now across Australia with all sorts of things being sold, I do not know how that is ever going to be regulated, because who actually is the auctioneer? There is no outcry, which is what an auction is. It is just pressing buttons and the figure automatically going up by increments as set by a computer. So if you were to prosecute someone for the wrong thing, who is the actual auctioneer, which is a question we have been toying with and we are finding it very hard to come up with an answer? So that is where we are with it. We would seriously ask those considerations be taken into account, because I think it has all been pre-empted up here as to what might happen.

ACTING CHAIR: What do you want us to do?

Mr Madigan: Sit back and wait and see what the national occupational licensing system is going to come up with, see where that fits in with your plan. I can see that if you go ahead with this bill and it comes through before the national licensing system, it may well be that Queensland is out of step with the rest of Australia. Being a signatory to the national licensing, I think you are jumping in probably earlier than you should be.

ACTING CHAIR: When do you think that will finish?

Mr Madigan: When do I think it will finish?

ACTING CHAIR: Yes. The national coordination, when do you think that will occur?

Mr Madigan: It is due for implementation from 1 July 2012, so we are some 10 months or eight months away.

ACTING CHAIR: Are there any questions of Mr Madigan?

Mrs KIERNAN: I refer to the deregulation of the non-auction livestock sales. I am from North Queensland and a huge part of my electorate relies on live export, but also export to the south, which is probably by far where the majority of our cattle go. While everyone would think that every cow gets on a ship and goes overseas, that is not the case. I refer to some of the concerns that you have raised and some of my understanding of cattle that come in, particularly to saleyards and are sold through the saleyard process. The agents or the saleyard manager would be responsible for some of those issues that you have raised. I refer to cattle that are sold on the property and another gentleman we spoke with earlier talked about e-commerce. I am aware that groups of graziers may be in a pub somewhere and, through camera technology, are looking at stock on the property. They have not gone anywhere. With the concerns

that you have raised, I am wondering how we can address these sorts of issues through legislation, as opposed to regulation through the industry itself?

Mr Madigan: It is an interesting point and thanks for your question. Livestock is sold right around Australia in the paddock, by auction, by tender. There are 101 different ways, with agents or without agents. There is nothing to stop a producer from picking up the phone and ringing JBS Swift up here in Queensland or Teys Brothers, and getting a price off them and sending their cattle direct. They are not coming under any regulation as being buyer and seller. They have just done their own deal and away they go. If the agents are involved in it, the agent would be chasing prices from everybody else, but comes under regulation because they are getting money from the purchaser and holding that on behalf the vendor.

When it comes to an auction, we come under all sorts of regulation because we are auctioning them. I think is a little bit strange that we can sell them one way, but we cannot sell them another way without a heap of regulation being put on top of us. I think that Victoria got rid of the regulation around livestock sales right across the board, so they can be auctioned by anybody. You could go down there yourself and conduct an auction. You do not need a licence to auction livestock. You do not need a licence to sell livestock in a paddock in Victoria. I think that is where the system of NOLS might be going, to take livestock out of it. That is not our stance. We would like livestock auctions to be regulated right across the country, because a huge amount of money changes hands each day of the week. Especially in Queensland, you would have a number of cattle auctions going on every day of the week in different sales around the place.

The consumer needs protection and I think a lot of protection also needs to be looked at, apart from the consumer side of it, for the animal welfare aspects. Licensed agents take pride in looking after animal welfare. There is the biosecurity issue, which we cannot forget at all. If we have a biosecurity problem here, if there are people who are unlicensed and do not follow any training or education or interest in the system, apart from just selling to make a quid, it could be devastating to the economy of Australia, let alone Queensland being the biggest cattle state in Australia.

Mrs ATTWOOD: I want to ask Mr Madigan a question about training. You were talking about people in rural and remote areas not being able to access that training or not being able to get the free time to go into the city to do the training. Have you considered the concept of online training in relation to licences?

Mr Madigan: Yes, we have and we do it in other states. We do our own training as an association. We take it out to our members in rural and remote areas. Whether that is the training that is accepted by some people, because we are not a registered training organisation, but as an industry association we can probably train them a lot better than RTOs can. I am not meaning that in a derogatory way to the RTOs in any way. It is just that it is our business, it is our industry and we know it.

We have looked at online training. My point is that if a person is going to be doing one lot of auctioneering and selling a $10 million property, they have had a certain amount of training or education one way or the other. Then this proposal is asking them to go and do some more training to sell at a clearing sale of that property. A clearing sale, these days, might be a sale of $200,000 worth of sundries, but they have sold the property by auction for $10 million and they have to have a different licence to go and sell nuts and bolts and broken bits of material.

Mr BLEIJIE: Mr Madigan, you said the national licensing comes into effect mid next year.

Mr Madigan: July.

Mr BLEIJIE: July 2012. Your recommendation is to just hold off completely until then. Is there a way, through amendments to the current bills, that would satisfy your industry? Can we, as a committee, look at the recommendations without saying, 'We are going to hold off completely?' Are there ways to keep your industry happy or to satisfy the objectives of your industry through the current bills with the split, through amendment? You can make recommendations to this committee that we can then recommend.

Mr Madigan: Certainly I think there would be. My biggest problem is that until the regulatory impact statement comes out of the COAG meetings and the NOLS, we really do not know which way they are going. For Queensland to implement some legislation and then find out that that is not where NOLS finally ended up, you could have a bigger problem trying to get it out of legislation to come into line with the NOLS which everybody signed up to. That is our biggest concern. It is probably simplistic to say hold everything and just do not do anything for a while. I think it would be more complex to be doing something and then trying to undo it later on so that it does fit in.

Mr BLEIJIE: I was going down the line that if this eventuates, if this goes through, we may make certain recommendations but the government may intend to put it through the parliament. You raised the issue about being able to sell a $10 million dollar property but then needing a separate licence to sell the nuts and bolts. Can you go away and think about this: in the event this goes through, are there things that you can put to this committee, in terms of amendments, that would fix those dilemmas? The reality is that we have seen legislation go through, PAMDA for instance, which gets amended every year. I am seeking from you some advice, if it does go through and eventuates, how we can—

Mr Madigan: As in the submissions that we have put in previously, if I could make one suggestion or recommendation to this committee it would be that if someone has a national licence to auction that should be to auction anything. That should be acceptable. If someone is in Queensland and does not have a national licence and wants to auction goods and chattels, whatever they may be, they can get a

Queensland licence or they can go for the higher qualification and get a national licence. Our recommendation would be that you recognise the national licence as being able to sell, by auction, anything and anywhere, because that was the whole idea of it.

Mr BLEIJIE: And that gets over the issue of the property and the nuts and bolts.

Mr Madigan: Yes, because that same person could sell the property, could sell the cattle, could sell the wool, could sell the nuts and bolts.

ACTING CHAIR: Any further questions of the witness? Mr Madigan, thank you very much for your time and for your advice to the committee.

Mr Madigan: Thank you very much, committee, for offering us the opportunity.

COX, Mr Simon, Consultant and Trainer, Real Estate Dynamics

ACTING CHAIR: Mr Cox, welcome. Would you like to say a few words?

Mr Cox: Good morning, committee members and guests. Thank you for the opportunity to speak today. I speak to you today as a career property manager. Having started in the Queensland real estate industry in 1999 as a property manager, I have seen our industry grow and change through more than a dozen federal and state legislation. I have seen first-hand Queensland real estate businesses thrive during the boom period and I have seen business owners cry in the face of financial ruin. As a property manager, trainer and consultant, my job is simple: to get the real estate business moving forward again.

My submission is uncomplicated. You currently have a unique opportunity to change and amend sections of the current legislation that may not be working as effectively as possible. For every industry controlled and guided by legislation, it starts with the foundations and sadly the current licensing guidelines for property management are not sufficient. Currently, licensing for property managers is captured within the sales registration. This course covers very little property management content, which perhaps can be a contributing factor to our industry's high level of complaints registered with the Office of Fair Trading. In 2009, residential property management products were listed as No. 2 in the most complained products list, contributing to 12.7 per cent of the top 10 most complained products in our industries. As a government, one of your obligations is to protect the consumer's rights and interests. How can you be protecting those rights when licensing does not provide minimal educational guidelines?

It is estimated by the Residential Tenancies Authority that approximately 85 per cent of all rental properties in Queensland are managed by real estate agents. Based on those figures, as of June 2011 almost 385,000 bonds held by the Residential Tenancies Authority have been transacted by property management staff. Property management is big business in the Queensland housing sector and the time has come to have it recognised with more stringent qualifications and educational standards. I am aware of the impending national licensing guidelines, but these are Queensland property managers using Queensland laws and industry opinion is that the guidelines may well fall short of setting good strong educational standards.

The second discussion point in my submission concentrates on the issue that creates confusion both with the property management community and the consumer. This is the classification of what type of agreement the agency and the consumer can enter into. For many years the notion that property management agreements are neither exclusive nor open listing has created confusion. It may be a simple process to adapt the already-proven process of identifying the type of agreement by mirroring the sales agreement, form 22a part 5, with some small amendments. As has already been advised, property management is a profitable sector of Queensland and a clear defined understanding of these constitutes a binding agreement that will remove any doubt to the parties.

Real Estate Dynamics is Queensland's largest brokerage business, conducting hundreds of real estate rent rolls and business sales yearly. Our business is positioned better than most to demonstrate just how large the property management sector is in Queensland. For many businesses, the rent roll is the only asset a real estate business has, yet it poses the greatest risk in noncompliance. Your chance today is to make this sector of the industry recognised as a valuable contributor to the housing sector needs of Queenslanders and set some more defined guidelines on what the government expects from you today. I thank you for the opportunity to speak to the committee today. I wish you well on the road ahead with your endeavours.

ACTING CHAIR: Thank you very much. Are there any questions of Mr Cox?

Mrs ATTWOOD: Thank you very much for that summary of some of the issues that are facing you in relation to noncompliance. Can you give us some examples of some of the complaints? You are saying that you have had the highest number of complaints in that category. Can you give us some examples of the most popular?

Mr Cox: Obviously, the consumer has a number of complaints relating to standard property management practices, usually centred around the final inspection and the refund of rental bonds, and, obviously, disputes relating to agency practices in that process. Fundamentally, as it stands right now, with the Office of Fair Trading and the licensing, you can achieve a sales registration in 2½ days through some of the providers in our industry, walk into a real estate office on day 4 and start transacting residential property management and essentially have no knowledge or any understanding of the act. As a trainer—and I train this every day—that is an understanding of not only the Property Agents and Motor Dealers Act but also the Residential Tenancies and Rooming Accommodation Act, which has no licensing requirements for an individual to operate in a real estate office. My personal feelings as a trainer is that we are very quick to give out a licence. We are very quick to go through that process—and obviously it is a stringent process that the OFT follows through with—but, sadly, when the employee goes into the office to work with the customer they have no education at all. Obviously, that is an obligation on the owner of the business, too—and I am not dismissing that—but I think there is a responsibility on the government before it hands out the licence that the individual has some basic understanding of property management practices.

The words 'property management' does not exist in any of the current legislation or the proposed Property Agents Bill. If you do a search there, it is not there. That is incredible, considering that over 400,000 bonds are held for rental properties in Queensland right now and that 85 per cent of that is being conducted by real estate agents. It is big business. We deal with it every day in the sales of real estate businesses in our company.

Mrs ATTWOOD: Thank you.

ACTING CHAIR: Are there any further questions?

Mr BLEIJIE: What is the two-day course where you can walk into OFT and get your training licence or property management licence? Is it a competency based licence? They pay fees?

Mr Cox: We do not do licensing, so I will make that point very clearly. There are a number of providers in the industry who provide the licensing and the sales registration courses. I was training companies who do this last week and by their own admission less than 10 per cent of the registration course is affected with property management—less than 10 per cent. In some cases they do not even look at the 20a—the property and motor dealers agreement 20a—in part of their agreements. It does form part of their minimum standards that they are required to do, but the attendee then walks out of the room and effectively can go in and conduct property management practices.

The legislation is very heavily geared around sales. I say this as a career property manager. I just think it is not balanced in that area. This is what people do. Real estate rent rolls are big business. They are the only thing that is keeping real estate businesses open right now. Almost 60 per cent of real estate businesses need a property management business to keep their doors open right now and they are employing people who are not getting enough education, who are simply getting a registration certificate through the government, and who are completing it in less than three days.

Mr BLEIJIE: So they get a registration certificate.

Mr Cox: That is correct. It is a sales registration certificate, which allows them to do both sales transactions and property management.

Mrs ATTWOOD: If there were a training course for property managers—specifically for them—what area would be most important to concentrate on in that training?

Mr Cox: There is no question that it needs to be split between the property and motor dealers agreement and also the Residential Tenancies and Rooming Accommodation Act. There is no question that the education of an individual to incorporate both legislation is important before they go out to deal with the customer.

Mrs ATTWOOD: Thank you

Mr LANGBROEK: My question is about your second issue in your submission. Can you clarify for me a little bit more in layman's terms the point that you are making about sole or exclusive listings for property management services and how that affects the consumer?

Mr Cox: As it stands right now, on the 20a—the property and motor dealers agreement 20a—there is no provision there at all to identify whether it is sole or exclusive listing with the customer. So essentially, the customer signs the agreement with the real estate agency. The client has then the option to go across the road and engage another agency to assist them in renting out their property as well. Obviously, there are obligations that must be followed in regard to the agency in conjunction—anything working with that particular agency as well. But as it stands right now, on a sales agreement it identifies very clearly that it is a sole exclusive agreement but it does not do that on the property management agreement

Mr LANGBROEK: I see. Thank you.

Mr BLEIJIE: Can I follow up on that? But if you appoint someone as your property manager you are appointing them for a period of time. So would that not indicate that they are the property manager for the time?

Mr Cox: There are two types of appointment. There is a single and a continuing agreement. The single agreement is for a set period and for a particular task. So you can employ a property manager to let your property only and that would be considered a single appointment or you can employ a property manager on a continuing agreement, which means the agreement is, in effect, for a period for a number of tasks and that can be terminated at a minimum of 30 days, or 90 days as a maximum. So once you engage an agency with property management, there is no restriction in stopping a customer going and engaging another agent—another property manager—to assist in the renting of that property out. The restrictions apply to the agency and the conjunction part of the process in ensuring that they have made the customer aware that there is a possible liability of dual commissions to both agencies, because they have engaged two agencies in that process.

As it stands right now, there is no definition of a sole agreement, or an exclusive agreement, and that is the essential part of the agreement that needs to be included in the 20a. We have gone through the process with the sales. Why is it that property management does not include that? That is something that I ask the committee to consider and look at.

Mr LANGBROEK: Can I continue with that? If you are renting your property and you go to a property manager, I would have thought that it is unlikely that you would then also shop around the ability to rent your property.

Mr Cox: Very much.

Mr LANGBROEK: As opposed to selling it, where you might say, 'You have had exclusive agency. You have not been able to sell it and now I am going to go to another agent.' But if you are getting your property managed by someone, would it not be—

Mr Cox: No, that is not the case at all. Consumers are now shopping around and engaging multiple agents to achieve the result that they need. The reality is that in the marketplace now properties are sitting on the market for anywhere up to three to four weeks and the consumer is obviously losing money. Therefore, they are giving themselves the best opportunity by multilisting their property with other agents in order to achieve a result with the other agency. The sooner they can get their money in the quicker the result is achieved. They are multilisting with other agencies.

This is the confusion. The real estate agent works very hard to get that agreement signed and to get that commitment from the customer for a period. But then the customer simply has the ability to go and engage someone else if they choose to go through that process, therefore, obviously reducing the opportunity for the existing agent to rent it out. In my experience, I have signed an agreement with a client who has had five agreements with other agents because of one issue—they want to get the property rented today—and they will engage as many people as they can in order to achieve the result that they want. So it is happening right now and that is all driven by vacancy rates in our industry. Clearly, the more properties that are empty, obviously, the more people are shopping around to get a result.

Mr LANGBROEK: Does that mean that under the current legislation they run the risk of being hit up by some of the other agents who they have signed with for another commission?

Mr Cox: That is correct. There are—

Mr LANGBROEK: Twelve per cent, or whatever it is?

Mr Cox: There is the ability to charge the customer a letting fee and obviously expenses associated with the business. The issue becomes a problem, though. If I am the agent and you rent your property out with another two agents, I am not going to create any bad karma with you, because I am not going to charge you for a service that I have not completed if you have found the result with another agency. So many agents will simply walk away from that transaction and they will not engage and pass on costs to that customer. That is my opinion. But there are agents out there who will charge the customer, even though they do not get the result. The issue becomes a point of the customer identifying, 'I am engaging you as the real estate agent today for the next 30 days to let my property out and then hopefully continue on with the management if you achieve that result.' If I do not achieve it within 30 days, then you are free to go and find another option with another agent in the area. As it stands right now, that is not defined as an exclusive or a sole agreement.

Mr LANGBROEK: Thank you.

ACTING CHAIR: Mr Cox, thank you very much for advising the committee.

Mr Cox: Thank you for your time.

ACTING CHAIR: We will now hear from the Australian Resident Accommodation Managers' Association, Mr Trevor Rawnsley.

RAWNSLEY, Mr Trevor, Chief Executive Officer, Australian Resident Accommodation Managers' Association Inc.

Mr Rawnsley: Good morning. Thank you for inviting ARAMA to the table. For those of you who do not know, ARAMA is the industry group that represents the interests of people involved in management rights. There are about 3,500 management rights schemes in Queensland—growing rapidly in line with the way in which the population is growing in Queensland. Management rights is the management of property on site in community titles schemes.

We are pretty comfortable with the split between PAMDA and the Property Agents Bill, with some qualifications regarding the impact that it would have on our members and the community with the intended changes with NOLS that come into effect as of 1 July this year. So if we wanted to save time, that is our position. Where we see the impact that this change between PAMDA and the Property Agents Bill is in the removal of the resident letting agent's licence in short-term holiday let complexes.

Currently under PAMDA, all of our members are licensed. Our members are required to undertake training. I agree with the previous speaker: the actual technical elements of the training can be improved, but I think that is a fairly easy thing to fix. However, all of our members are licensed, the consumer is protected by that licensing arrangement and our members are protected by that licensing arrangement as well. When NOLS kicks in on 1 July, it is mooted that the current protection that consumers enjoy and that our members enjoy will be removed and that those in short-term letting, or holiday complexes, will be able to operate unlicensed. We see this as being an unacceptable outcome of any change.

ARAMA has worked cooperatively with the Queensland government over many years to built the management rights industry. The industry has been chugging along now for over 20 years. It is a big industry. We employ about 11,000 Queenslanders and we engage over 23,000 contractors each month. So we see that half of the industry is becoming almost unregulated as a result of these changes and we are fearful for the future if that were to occur. So that is our position.

ACTING CHAIR: Thank you very much. Questions from honourable members?

Mr BLEIJIE: Mr Rawnsley, we heard from a couple of speakers about the NOLS, which comes in in July next year. So ARAMA supports the separation of the legislation with a few qualifications, but not to the extent to hold off until July next year?

Mr Rawnsley: No. Without trying to sound smart, we are happy with the PAMDA legislation and the way in which it has been framed in Queensland with particular regard to tourism accommodation. Consumers—lot owners, if you like—are protected under the current legislation. They know that they are dealing with a licensed property manager and that that property manager is required to operate in accordance with the current PAMDA Act and the BCCM Act. We keep audited trust accounts. The funds are kept in trust. For example, if you are talking about complaints, in an industry that is often complained about there were 8,800 complaints registered by the RTA last year. Our members were involved in less than 200 of them. I am not saying that we are squeaky clean, but one of the reasons we may have had such a good track record is that category of licensing—the resident letting agent's licence—and we are fearful of how that might change the game if NOLS were the facilitator for the removal of that licence from tourism accommodation in Queensland. Does that answer your question?

Mr BLEIJIE: Really, it gets to the heart of that national licensing system rather than necessarily amendments to the current act that is being split into four. It is the impact that it could potentially have in July next year?

Mr Rawnsley; The potential impact, which is still an unknown. We are still not sure, because NOLS seems to be adopting a Victorian model. The current Victorian model does not have an RLA licence; it has a full licence only. Our members are not really involved in sales—some of them do, those who do have a full real estate agent's licence. Their primary purpose is to let property on-site—to live and operate in a scheme. As an industry association, we believe that they should be licensed, as we currently are in Queensland, and that those licences should have certain things in place, like the maintenance of a trust account, which is audited regularly. What we are concerned about is that if NOLS adopts the Victorian model, then what we have enjoyed in Queensland for the last 20-odd years under the PAMDA Act will be at risk for half of the industry—half of that community titles scheme. There are about 50,000 investors who own lots in schemes—in short-term letting—and a truck driver could jump in and start looking after their holiday apartment and have no accountability potentially.

There is also the question that those operators in those tourism complexes may get caught up with the financial planning. The question has arisen that there are serious concerns within the industry that we may be caught up in the financial advisers—

Mr FOLEY: You would have to have a financial services licence?

Mr Rawnsley: Yes, thank you very much, financial services licence. That really is ludicrous for someone who goes on holidays. If you are a holidaymaker in Queensland you want to know that you have got friendly people there, not financial advisers checking you in and at five to five, 'I'm sorry, I can't get your corkscrew'. So that is where we are. We are fearful about what these changes may do.

Mr LANGBROEK: Mr Chairman, can I ask Mr Rawnsley: so you are advocating for a separate Queensland licence because of the tourism implications for Queensland?

Mr Rawnsley: Queensland is different.

Mr LANGBROEK: We know that. We are very proud of that.

Mr Rawnsley: Yes, of course. And we have a very robust and mature tourism industry. We believe part of the reason for that is those apartments that have been built in community title schemes. That is a large reason why tourism works well, apart from a great place to live and the sand and sunshine. But it is the way the tourism industry has grown and been legislated in Queensland. So that is why ARAMA's view is that the PAMDA act for our industry served its purpose quite well. Sure, there are some elements that can be improved. We see the Property Agents Act as doing the same thing with the possible exception of the fallout. So, if we are saying that Queensland should go alone, I would rather think that Queensland should lead the way and educate the Victorians to adopt some of those elements in the current PAMDA act when it comes to NOLS, particularly in regard to licensing.

ACTING CHAIR: Thank you very much indeed. Call the next witness, John Punch OAM. My learned friend, would you like to take the oath or the affirmation?

PUNCH OAM, Mr John, Solicitor, Short, Punch and Greatorix Lawyers

Mr Punch: I'd take the oath.

ACTING CHAIR: Welcome to the committee. Would you like to make a statement to us?

Mr Punch: Sure. I am from the Gold Coast and I have been in practice as a lawyer for more years than I would like to think about. In that period of time I have been involved a great deal in our industry on the Gold Coast, particularly tourism. I am one of the founding directors of Gold Coast Tourism. I look at the law from the perspective of how it serves the industry and the needs of the public. The Property Agents and Motor Dealers Act has been well operated for many years to provide for our tourist industry. In what is a rather strange way, as Trevor Rawnsley the previous speaker has spoken about, it serves the tourist industry by providing a framework for absentee owners of accommodation to have their apartments managed on site by resident letting agents licences. It also serves the investment industry to provide permanent accommodation with a similar path for absentee owners who wish to invest in providing housing but in apartment accommodation where they can have the certainty of management on site.

From that perspective when I see that other states do not have the same provisions we have and nationally in the licensing proposal there is an idea to drop the arrangements that we have in Queensland, I view it with a great deal of concern for our tourist industry. I think there can be improvement, as always, but I go right back to the act before the current act even and know that the system that was put in place through the Estate Agents Board allowed for these special licences in those days. Today they have become resident letting agents' licences. I would like to make that point particularly initially.

There is another aspect of these licences that probably is not addressed in the legislation and that is that whilst we have a one-on-one arrangement for a letting owner to appoint an on-site letting agent, there is also a need for a possible pooling of owners to share income from a group of apartments. I would like that to be explored a little bit more in Queensland so that we can have the needs of owners and accommodation managers properly catered for. By that I mean if you have an accommodation building of, say, 30 apartments that are used for tourist accommodation and you have an on-site manager with a real estate licence who receives the rentals as the people come in to utilise their apartments and accounts to each owner, rather than an accounting on a one-on-one basis for each unit that is let, if that money can be pooled through a trust account and then shared proportionately after expenses by the whole group of owners, we get a more practical arrangement and probably less expenses in running the building for the owners. That is just a thought that has not been addressed in any legislation to date.

ACTING CHAIR: And it needs to be?

Mr Punch: I think it would be an improvement. Just as the accommodation building shares facilities and shares guests, would it not be practical and reasonable to share the income that comes through the front door amongst the group of owners?

ACTING CHAIR: You need a statutory requirement to do that?

Mr Punch: At the moment the regulation is very correctly tight in that every owner of a property who wishes to give it to an on-site letting agent has to provide a form 20a letting appointment and in that appointment the arrangements for accounting out of a separate trust account for that individual owner are set out. You would need to certainly change regulations, if not provisions in the act, to achieve that, I believe.

Mrs ATTWOOD: Thank you, Mr Punch, and thanks for those good words about the PAMDA bills. You did mention that you could see there could be some improvement in the bills. Is there anything that you wanted to talk about in relation to that or were you talking about the pool trust account arrangements?

Mr Punch: The current provision for separating off licences into separate pieces of legislation I think is an excellent move. I think that the taking forward of that bill as an act is a very important move. There is confusion in the act as it currently is because you have to decipher where you fit into the various chapters, so separation is important. It is the next step after that, the national licensing, that presents concerns to me.

Mr LANGBROEK: Can I respectfully suggest that that is not necessarily within the remit of this committee, but obviously Mr Punch should be recommended to write to the Attorney-General, as I am sure he already has, for the Attorney to take that into consideration when he has a ministerial council at COAG.

ACTING CHAIR: Clearly that is a matter that can be taken up at the national conference of the appropriate ministers, but it is competent for us to make a suggestion along those lines so we will take that idea on board, John, thank you. Are there any other questions?

Mrs KIERNAN: I have a clarification. Going back to the example that you set out, Mr Punch, in respect to a unit block of 30 apartments and the shared income going into one trust fund, obviously those apartments can be sold and bought at any particular time. In the event that a new owner came in who might own other properties and already have their own trust set up for their investment properties, what if they want to opt out?

Mr Punch: That would have to be taken into account as an obligation on the letting agent. That does happen today and it is a major problem in the single appointments. We find in our tourist industry that an apartment might be used for tourist accommodation, it is then sold and the buyer may wish to occupy it themselves. The letting agent should be given 90 days notice of that to prepare the path. So it is already a

problem in our current system that owners ignore the law and will give the buyer a key to the apartment. The letting agent who is trying to put tourists or other appropriate guests into the apartment then finds that the owner has taken over possession. So that is an area that is not terribly well addressed in the current law. I think in the process of dealing with the buildings that would want pooling, you would find they would be more the type where there were only tourist occupants and owners would not be trying to occupy the apartments themselves. But if the pool shrunk, the manager would have to deal with that as the agent on site at the time. I think that could be handled.

Mr LANGBROEK: Mr Chairman, can I ask Mr Punch: even at the Gold Coast where you and I are from, there are not many properties that are purely for tourists unless they are hotel businesses?

Mr Punch: That is correct, John-Paul. The beauty of the current system is the flexibility. Therefore a person can invest in an apartment, use it for their own purposes or use it in the tourist industry. It has provided an amazing amount of capital to our tourist industry to provide accommodation. We cannot get the capital for hotels where there is one lump of capital owning the entire property, but we can get the capital for 150 owners of which 100 might put the apartment into tourist accommodation and the other 50 use them for other purposes. So you do not need the purity of a building for only tourist purposes to make it work.

Mr LANGBROEK: The principle of what you were expounding in your original submission, can you clarify that again for me? Is it because of body corporate costs or the costs of running the building that you are suggesting it should be legislated that there is a pool of money from the revenue that comes in that is designated for the costs of running the building?

Mr Punch: My initial concerns are that we do keep this system of licensing going in Queensland. It provides something like 65,000 rooms on the Gold Coast. It is massive. If you did not have the current licensing on-site of real estate agents conducting this accommodation it would be a disaster for our industry. I am then suggesting that there could be one step further where the laws could be improved upon so that it is not just a one-on-one arrangement for a letting agent, it could be a letting agent running a pool of accommodation needs of guests and owners and, still through a trust account, apportioning the money that goes out each month to each owner. That would be a step. In my experience, some parts of North Queensland might already been operating that way unlawfully, but they are operating successfully to reduce the result.

Mrs KIERNAN: We don't do unlawful things in North Queensland.

Mr BLEIJIE: Mr Punch, correct me if I am wrong. You use the example of 30 units. What you are suggesting is if you had a pool of, say, 20 of them who wanted to get together in one letting agreement with the owner, then over a month you had various units out of that 20 letted—some of them did not have any at all—despite the fact that five out of the 20 remained not having any letting in that month, they would get a portion of the money from the other units; am I correct that that is the hypothetical?

Mr Punch: Yes. That is exactly the situation—that is, they would share the total pool of rental for the number of units that might be handled that way. We get into other areas of law where that has been a concern, and that is the federal government Managed Investments Act which came in some years ago to require that if managers were letting apartments for absentee owners and considered by ASIC to be managed investments then they must be let through a state licensed real estate agent arrangement in order to be exempted from the requirements of the Corporations Act. So we have already had some federal views of the need for controls of managed investments, and I think it brings it down to a more state level where it may be a process.

Mr BLEIJIE: So if by regulation we could do it, it would really be an opt in and the option would be put to them. I see an issue that could arise. For instance, you could have one particular unit that is really well furnished and has a good view that is continually let every week of the year going into a pool where others may not be let because they might not be, for whatever reasons, as nice. I think letting agents probably do try to mix the guests around, but you probably do have people who say that they want to stay in that particular unit at that time every year. But I guess if it is an opt in they could just choose whether they are happy with their 52 weeks of rent a year.

Mr Punch: I would think that you would only apply the pooling where you had a building of equal quality and similar apartments. Where you have varied apartments, then you would not; you would stay with the current system. It is just an option that I think could be looked at.

Mr BLEIJIE: Thank you.

Mr FOLEY: Mr Punch, do you have any comments to make on the marketing of time share as opposed to real property?

Mr Punch: It has not really crossed my path in the law so much. I think time share is a valid industry for our tourist industry that helps provide more tourists to the regions. Time share does have aspects of real estate management which I do not think come within the Property Agents and Motor Dealers Act, but a time share manager will allocate the spare space to other guests that it can receive money from for the benefit of the owner. It is an area that is very specialised for the operators of time share.

Mr FOLEY: I guess my concern is that I have seen examples where it is oversold and a company will put out a brochure and say, 'You can go to this resort or that resort,' and then they are continuously selling share of time to put it properly into the market. We have seen examples where at a certain level of membership with time share those people get priority to properties and effectively it means that people are

buying a product that has absolutely no hope of delivering the upper end of what they say is possible—that is, bordering on fraudulent.

Mr Punch: Yes, that would be a party selling an impossibility and that should be avoided. I do not know whether that is governed by our state laws or our federal laws in the time shared scene.

Mr FOLEY: Possibly Fair Trading or—

Mr Punch: Yes. In the tourist industry we do not get a lot of complaint in that area, but from the investors I should imagine there could be some concerns.

ACTING CHAIR: Thank you very much.

LIDDLE, Mr Alan, ADL Software Pty Ltd

ACTING CHAIR: Mr Liddle, would you care to make some remarks to the committee?

Mr Liddle: I have put in quite a lengthy submission on behalf of my clients. That submission is fairly representative of the opinions of our 1,500-plus clients in Queensland. The major concern is, I believe listening to my clients, that they are looking for greater certainty in the real estate property sales and conveyancing process. With the vast number of prescribed forms under current legislation and some poorly drafted elements of that legislation, there is extensive scope for inadvertent technical error which can lead to termination, dispute and even litigation. Basically, that is it in a nutshell. There are a number of minor issues that we have mentioned in our submission. Most of the issues we have mentioned and have made recommendations on have already been covered by the SDPC, the Service Delivery and Performance Commission, in their report back in 2008, some of which has already been acted on.

If you were to make reference to their report, you will notice that they were recommending wide-ranging changes in respect of separating the different components of the PAMDA legislation. My clients believe that many of those recommendations are well worth considering, in particular the recommendations in respect of repealing many of the prescribed forms and replacing the requirement within those forms by regulation in respect of forcing agents to provide certain warnings and information within normal standard documentation like sales contracts and agency agreements. You will see that they have in appendix 1 of their report a full list of all of the forms with the individual recommendations for those forms.

Mr BLEIJIE: Mr Liddle, the committee this morning will now release the *Hansard* from our hearing two weeks ago where we had the Law Society and the REIQ. For the benefit of other members of the committee, the ADL is the other contract in Queensland. The REIQ have a standard contract; the ALD produce their own standard contract. So I thought what they in fact do might benefit members.

Mrs KIERNAN: Thank you, member for Kawana.

Mr BLEIJIE: So when we practise we have the two contracts, the REIQ and the ADL, which you started early in 2007. I am going to put the same question to you, Mr Liddle, as I did with the REIQ. I have always had issues with the warning statements and drawing the buyer's attention to the warning statements, and I know through your submission that you have noted the same concerns with respect to that. With regard to warning statement 30c, is that able to be embedded into your standard contract?

Mr Liddle: In actual fact, I could show you how we have managed to do that with the current statement. We have created virtually a sales contract kit, as it were.

Mrs KIERNAN: Can we possibly have that tabled for the benefit of committee members so we can have a look at that contract?

Mr Liddle: Yes. Basically we have important instructions—I should have brought two copies, shouldn't I?

Mr BLEIJIE: Refer to it and then table it if you want.

Mr Liddle: Yes. There are important instructions. Part A of these instructions is outlining what this document comprises. Part B draws the buyer's attention to the 30c and the sales contract, which is highlighted in its own box with a grey background, and that is a requirement under the legislation: you must draw the buyer's attention to the 30c and the sales contract. So we do that in part B. Then in part C we tell the client to read all of the documents as mentioned in part A. Then in part D we tell them how to sign and in what order. Then in part E we mention that they must initial all changes. Part F tells them that all parties should initial at the bottom of each page of the contract. We have a note that says that failure to do so will not invalidate the contract. Then part G is acknowledgements—that is, they have already received the PAMD 27c, read the instruction page and, where applicable, received a form 36 notice of no pool safety certificate. On the sales contract for community title, that also has mention of the BCCM 16, I think it is, and the BCCM 14 on the same page. That technically is the top page of our contract.

Mrs KIERNAN: So it is a comprehensive checklist and then you have the warning?

Mr Liddle: It is a comprehensive checklist. At the bottom they sign stating that they have read and understood this page.

Mr BLEIJIE: Where is the 30c, the warning statement?

Mr Liddle: The 30c is the next page and then naturally after the 30c is the sales contract.

Mrs KIERNAN: So in your upfront sheet at the front do you actually note that you have a warning statement within this documentation? It is on the front sheet?

Mr Liddle: Yes. Part A mentions what is here. Part B says that you must look at the warning statement.

Mrs ATTWOOD: So it is all comprehensive in the contract?

Mr Liddle: It is comprehensive. In my opinion you do not need a prescribed form to get the warning across; you just need some sort of sheet like this that tells the client what his rights are and how he should act on this agreement.

Mrs ATTWOOD: And that would allow the property agent to go through the form with that particular buyer?

Mr Liddle: Yes, step by step.

Mr LANGBROEK: That is what the REIQ said too, did it not?

Mr Liddle: Yes, so that this can be incorporated into the sales contract. We sort of fudged it basically and made it look like it is incorporated.

Mr BLEIJIE: You would have had difficulty with that before 2010 because the warning statement had to be attached as the first of the top sheets.

Mr Liddle: Yes. Prior to 2010 it was just very difficult.

Mr BLEIJIE: But now it does not have to be attached as the top sheet; it just has to be attached to the contract somewhere—correct—as a warning statement?

Mr Liddle: Yes, it just has to be attached.

Mr FOLEY: Just for the benefit of the great unwashed who do not understand these contract issues, if REIQ is producing standard documentation and ADL is as well, is it the case that if a person is using a real estate agent they will tend to use an REIQ contract whereas if someone goes to a lawyer, for instance, and says, 'I want to sell a property or a transfer or whatever,' they tend to use yours, or do you have real estate agents also using yours?

Mr Liddle: It is a matter of preference. Our contracts are generally accepted right throughout the state as being standard contracts. In the early days, yes, there was a bit of resistance, but that has gone by the by.

Mr FOLEY: But is your software typically used more by non-real estate agent parties—your software?

Mr Liddle: No, this is real estate companies. I would say that of our 1,500-plus clients 90 per cent would be real estate offices. We believe it gives better protection to the agent, our client, by providing this comprehensive information sheet on the front for the client. I do believe that all that could be incorporated in regulation to be included in any sales contract.

Mrs KIERNAN: Does that form part of your recommendation on page 3 of your written submission?

Mr Liddle: We have been fairly broad in our submission. So we have not gone into great detail. We have referred to the SDPC report. In respect of the 30c, we have not been specific but we are open to further discussions into the future.

Mrs ATTWOOD: In reference to the SDPC report, is there any aspect of that that is still not current? Is it all current still?

Mr Liddle: A fair bit of that is still not current, yes. So it is worth looking at.

ACTING CHAIR: Mr Liddle, thank you very much indeed.

Mr Liddle: My pleasure.

ACTING CHAIR: We now invite the justice department to return to the table.

Mrs KIERNAN: Can we have that document circulated please?

ACTING CHAIR: Mr Liddle, you undertook to table the document.

Mr Liddle: I just did.

IRONS, Mr Chris, Director, Office of Regulatory Policy, Department of Justice and Attorney-General

ACTING CHAIR: Thank you very much, colleagues, for coming back. Thank you for staying through the meeting. I want to make some remarks about the process that we are in. I am going to ask the secretariat if they will extract these remarks from *Hansard* and send you a copy and a copy to your director-general. We have a time line that we have previously suggested to you it would be nice to be able to meet. On 7 September the committee is going to start making decisions relevant to the report that we will be writing. So we have requested departmental advice by 4 September, which is the Friday beforehand. On the 7th we will commence making decisions. We would be grateful for further departmental advice and for your presence on that occasion to assist us with decisions that we might make.

The written advice that we are looking for—could I emphasise that in the previous correspondence that we were asking you to provide assistance to us in identifying ways to address the submitter's concerns. As a result of the reforms to the committee system that we have just introduced, we have had a Copernican shift in the way things operate. The executive arm of government is now not alone responsible for the quality of the legislation. The legislature is now responsible to a greater extent than it previously was. This committee will be making a recommendation, which will be tabled in parliament, with respect to the matters that have been raised. Given that we now have to take some responsibility for what we say, we need advice not just as to what government policy is in respect of the issues raised; we also need advice as to how we could address the concerns raised by the people making the submissions. It does involve a completely new way of looking at the world from the point of view of departmental advisers and you are the first to be placed in this invidious situation. So congratulations!

Mr Irons: Thank you.

ACTING CHAIR: If you could accommodate our unreasonable demands in that respect, then we may be in a position to demonstrate to the rest of the world that the new, inclusive and somewhat more democratic committee system that we have introduced actually works. I thank you very much in anticipation for your addressing those matters. Are there questions with respect to the particular issues that have been raised that we want to put our colleagues on the spot to give a spontaneous answer to?

Mr BLEIJIE: I have two questions if I may, Mr Chair.

ACTING CHAIR: That is typical of you.

Mr BLEIJIE: Thank you for staying back. We have heard today—and it was not really discussed two weeks ago when we were all here—about the NOLS, the National Occupational Licensing System. Although the member for Surfers Paradise said it is out of the realm of our committee inquiry, you have heard probably three submitters today—witnesses—talk about the impact on it. Can you just tell us where we are up to with that, because it does have an impact if this legislation goes through, and whether we should be looking at the impact that that is going to have in July next year and what we should be doing about it now.

Mr Irons: It might help to give a very brief context about it, too.

Mr BLEIJIE: Please do.

Mr Irons: As the other speakers today have mentioned, it is a nationwide agreement that states and territories are signatory to. There will be, if my memory serves me correctly, seven specified occupations that will go in what is called a first wave. There have been seven occupations agreed to. Property occupations is one of those. A couple of the others include electrical, gas fitters, plumbers and a few others as well. At this stage the agreement is that, as other speakers have mentioned, the NOLS system will start from 1 July next year. As to where it is at currently, the next stage in the process—as, again, a number of speakers today have said—is the release of a regulatory impact statement about those occupations. One of the reasons why that is significant is that the regulatory impact statement will actually contain the details of the qualifications for those occupations, which of course is germane to the whole discussion. That is very roughly where the situation is at currently.

Mr BLEIJIE: I guess it goes to the second question. I think it was Mr Madigan from the Australian Livestock & Property Agents Association, who is still here. In relation to the two-licence category—and you heard the witness talk today about selling a $2 million farmhouse or property but then not having the ability to, on the same licence, sell the contents out of the shed, which could be a minute matter—can you give feedback in relation to that and what the department will do to take it on board or have a look at it? We may have this national licensing system in July next year. How are we going to resolve the issue which appears, from some of the testimony we have heard today, to be that there are two licensing issues in this category when the national licence would, in fact, allow them to do both.

Mr Irons: Sorry, I did not quite grasp your question.

Mr BLEIJIE: The national licence would allow the auctioneer to sell the property, the chattels and the nuts and bolts in the shed—

Mr Irons: Insofar as real property is concerned?

Mr BLEIJIE: Correct. But under the bills that we are looking at now, they will have to have the two licences in the two categories selling the rural property but—

Mr Irons: If indeed that is what they do.

Mr BLEIJIE: You heard the testimony today that in most cases if they sell the livestock, the property, the chattels, they do it all, but they will now have to have separate licences.

Mr Irons: Not all of them do. As Mr Eaton, the first speaker, said, there are actually some auctioneers who specialise in quite distinct chattel areas. Art is a very good example of where you would have someone who specialises in that area and they would not necessarily be interested in the real property side of things for very specific reasons. I guess the way in which the split has panned out in the bills that are in front of you today is actually a way of trying to recognise that. Notwithstanding what some of the speakers have said about the fact that they consider auctioning to be auctioning irrespective of what is being sold, distinction has been drawn in the bills before you between auctioning of real property and auctioning of chattels. You might want to think of it in terms of real property is being lumped together in one bill and then chattels have been put into another bill with motor dealers. As we said before, they have been put in there because the conduct requirements are the same.

Mrs KIERNAN: Can I ask a question? I speak from the perspective of the case of a very remote property where you have to actually bring people in. It might be on property 100 kilometres north of Camooweal. Is my understanding correct that if I bring in an auctioneer for the property, for the land and say the house, then I have to have a separate licence to actually sell off the cattle and the equipment?

Mr Irons: It depends on the circumstances. We need to make the distinction between what the situation is at the moment and what the situation would be assuming that these bills were passed in the form that they are in. That is the first distinction to be made. At the moment—and you might be familiar with this—we have a category of licence called the pastoral house. Within that you have pastoral house auctioneer. Depending upon the location, those pastoral house licensees can do that work of which you are speaking. So that is that situation. Under the proposed split of the bills, there would be a licence for auctioning of real property and there would be a licence for the auctioning of chattels. The concession, if you like, that is made in the legislation is that, for an auction of both real property and chattels at the same time, there will not be the need to have the two licences for doing that.

Mrs KIERNAN: So either licence would give you the ability to do both?

Mr Irons: In that situation where it is happening. Assuming that you were a property agent auctioneer, then yes, you could. You would not require the chattel auctioneer licence as well.

Mr BLEIJIE: If it is done on the same day, but I think that is the point Mr Madigan is making—

Mr Irons: Yes, that is right.

Mr BLEIJIE:—that what usually happens is in reverse; you do not sell the cattle or the nuts and bolts in the shed before you sell the house.

Mrs KIERNAN: Sell the land. No, that is right.

Mr Irons: I accept what Mr Madigan said, yes.

Mr BLEIJIE: I know you have two separate bills, but for the purpose of the people such as those in the electorate of Mount Isa, is there a way, even though they are two separate bills, to at least link in an instant where they are in that situation?

Mr Irons: The reasonably convoluted answer to that is that to a certain extent we are still reliant upon what outcomes of the National Occupational Licensing System regulation eventually come out. So the bills as they sit before you now I guess are how the government has attempted to split the act based upon what we know at this point and based upon how things are at this point. What happens under NOLS we will know in due course—and not too far away hopefully. Then at that point that is a decision for government as to what, if anything, they do. I can only speak for the bills as they present to you at the moment.

Mrs KIERNAN: I have a couple of real examples, particularly in the pastoral area, where the property has been sold and then there are issues with the goods and chattels and with the cattle and there are some inconsistencies—even bundling up and getting the cattle as part of the sale. I have some examples. In fact, I have sent them off for the Attorney to have a look at. They are old cases but they are still ongoing 10 years later, causing a lot of grief to families. I might get those examples, if it is okay with the chair, to actually send them down as examples to see if, with these new bills, we are actually fixing some of those anomalies and not making them worse in relation to how things are sold.

Mr LANGBROEK: Mr Acting Chair, that is the whole point of this process, isn't it? And you have expressed that today—making things simpler, more justice and engaging stakeholders with practical outcomes that will make their job easier and therefore Queensland consumers end up with a better result.

ACTING CHAIR: Yes, indeed. Colleagues, do you have any more for the department?

Mrs ATTWOOD: Mr Irons, Mr Liddle referred to the SDPC report before. I guess you have had a look at that because there have been some changes made. Is there any way of reporting to the committee about what aspects of the SDPC report have been looked at?

Mr Irons: The government did table a response to the SDPC report. So that was in 2008.

Ms Clayton: I think it was April 2009.

Mr Irons: So the government did actually table its response. The commission, as I will call it, made I think 43 or 44 recommendations in total about the Property Agents and Motor Dealers Act, and the government accepted I think about 22 of those. That was tabled as I understand it.

Mrs ATTWOOD: I will look it up. Thank you.

ACTING CHAIR: Is somebody working to check that there are no technical glitches in the bill?

Mr Irons: In terms of anything in particular?

ACTING CHAIR: In terms of repetition of lines or misnumbering of sections.

Mr Irons: It happens as a matter of course and we are in the process of instructing Parliamentary Counsel. That is a requisite part of the job. Indeed, Parliamentary Counsel go through their own quality control process right at the end of the drafting of the bill to try to eliminate those anomalies.

ACTING CHAIR: Because we have not got to that point yet, is that why we have a line repeated in one of the bills?

Mr Irons: Yes, that is right.

ACTING CHAIR: With respect to the fundamental legislative principles, there has been some reference to them between us and the department, but the committee is going to sit down and look at the fundamental legislative principles and the scrutiny of legislation type of stuff. We have not turned our minds to the question but we will be doing that also. If there are fundamental legislative principle issues that have been raised and it is the view of the department that, notwithstanding these FLP issues, it is desirable to proceed with the relevant section, it would be a good idea to give us reasons why so that when we come to consider the FLPs—

Mr Irons: As I understand it, the response to the FLP issues has already been supplied to the committee.

ACTING CHAIR: We have not been given reasons. What we are looking for is fuller and better particulars. If you like, we can do it through correspondence.

Mr Irons: As I say, my understanding was that that had already occurred.

Ms Powell: The committee does already have the minister's response to the scrutiny committee's recommendations.

Mr Irons: Well that would be the response.

ACTING CHAIR: We might be asking you for more. We might be putting some things to you and asking you for more.

Mrs KIERNAN: Prior to the first hearing, the department gave us that overview and I noticed that the DG gave us feedback as to some of the issues that were raised. Are we going to get copies of the feedback—the sheet of issues—that the DG spoke to?

ACTING CHAIR: Yes. We have asked for those to come by 4 September.

Mrs KIERNAN: So that will entail both hearings?

ACTING CHAIR: Yes. We have asked for that by 4 September and then we will turn our minds to it on 7 September.

Mr BLEIJIE: Mr Irons, when would you expect the department to know the outcomes of NOLS?

Mr Irons: The regulatory impact statement was actually due to be released maybe a month or so ago but there have been delays at the Commonwealth level, as I understand it, for the release of that. I do not know an exact date. But it is not too far away as I understand it. You would have to ask the Commonwealth where that is at. But to go a bit further, upon the release of the regulatory impact statement, that would be our—when I say 'our' I mean the government's—clearest indication of where NOLS is precisely going and the detail of that. There will then be consultation on that regulatory impact statement. So the Commonwealth is going to be conducting some consultation, and I dare say that the state governments would be doing something similar as well. Then it is like any sort of consultative process at that point. Stakeholders—some of whom were here today—will have their opportunity to say what they do and do not like and what they would prefer in that regulatory impact statement. That feedback will then go back to the Commonwealth, together with feedback from the states and territories of course because they are signatories to it. Again, like any sort of proposal that gets released, it is a question of whether or not any modifications get made to it as a result of that consultation.

Mr BLEIJIE: I would hate to play the devil's advocate of the committee, but it seems odd that we are going through a whole process of this bill with NOLS hanging over our head. We may go through this whole public inquiry process to get into a position where the department gets feedback and then goes out to consult with the same stakeholders that we are consulting on this bill. I suspect they will give the same feedback which we have had today and then we will be back here again doing all of this.

Mrs KIERNAN: Is it only certain sections of the bill though that NOLS is going to affect? It is an isolated—

Mr Irons: It is only property occupations that need to be clarified. So for motor dealers and commercial agents, NOLS will not be an issue.

Mrs KIERNAN: I agree with the member for Kawana. We are going through this process. Obviously we have to get our bill sorted out. This has been in the process for some time. What happens with NOLS—did you say July 2012 is when that is going to be settled?

Mr Irons: That is right.

Mrs KIERNAN: Many of us have not been involved in this area. This is new to us as well. Is there any chance of us getting an overview so that we know exactly what NOLS is going to hit or be relevant to so that we can have a look at that on 7 September?

Mr Irons: There is information publicly available right now about national occupational licensing.

Mrs KIERNAN: It is not something that I have regularly watched or read.

Mr Irons: Of course.

Mrs KIERNAN: My apologies.

Mr Irons: I understand. There is a national licensing body that is established for the purpose. I believe they have their own website. If not, the Commonwealth government has information about it as it currently stands. So that is everything up until this point. Then it simply becomes a matter of when that next step—the release of the regulations—happens in terms of your time lines.

Mrs KIERNAN: I guess I am looking for a one pager that I can read on a plane.

ACTING CHAIR: Chris, could we please have a couple of paragraphs on the interface between the NOLS process and this bill?

Mr Irons: Yes. I can speak to it now. In terms of the bills that you have in front of you, the government tabled its acceptance of those recommendations of the Service Delivery and Performance Commission and it also, as I understood it, tabled a time frame for that to actually occur. So that is the time frame that we are now following. At the time the government accepted those recommendations national occupational licensing was not a consideration, it is fair to say. It was not there. Even if it was there, it was in its very embryonic state. So there was little or no way that it could be anticipated what its timings were at that point.

Mrs KIERNAN: I guess that is what we are dealing with. We know that it definitely is going to now be relevant and have an impact. Certainly from my point of view I want to know where it is relevant to so I can understand in the context of the broader bills which components it is relevant to. I appreciate that there are sites out there. But, for the work of the committee members, if we could just have an issues paper provided to us about the issues that we have raised so that we are in a position to look at that.

ACTING CHAIR: If we could have a couple of paragraphs on the department's view of the interface between these bills and NOLS, that would be very much appreciated.

Mr Irons: Okay.

ACTING CHAIR: Colleagues, thank you very much for your patience, your forbearance and your assistance. I now declare this public hearing of the committee closed.

Committee adjourned at 12.24 pm