



Review of the Occupational Regulation of Valuers

RICS, through our office in Auckland, represents a growing number of valuers across New Zealand, working in commercial and residential valuations.

RICS has drawn on its experiences both in New Zealand, Australia and globally in this submission.

Preamble

RICS is the world's leading professional qualification in property.

RICS promotes and enforces the highest professional qualifications and standards in the development and management of real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to the markets we serve.

We [accredit 118,000 professionals](#) globally. Their expertise covers property valuation and management; the costing and leadership of construction projects; the development of infrastructure; and the management of natural resources.

With [offices covering the major political and financial centres of the world](#), our market presence means we are ideally placed to [influence policy and embed standards at a national level](#). We also work at a cross-governmental level, delivering a single, international standard that will support a safe and vibrant marketplace in land, real estate, construction and infrastructure, for the benefit of all.

Our key roles are:

- Advancing the highest ethical and technical standards for professionals in property and the built environment
- Protecting and benefiting consumers by setting high standards and codes of best practice
- Providing expert impartial advice to governments, business and the public
- Equipping RICS members with leading edge advice, market insight and professional training.

As one of the few professions to have established arm's length self-regulation of members, RICS aims to set and maintain the highest standards for its members, whilst operating as an independent organisation in the public interest.

RICS sets international qualification standards for entry into the profession to ensure that members are able to provide the highest quality advice and a level of integrity required by the market. RICS' high entry standards provide a reputation and coupled

with the monitoring regime through continuing professional development (CPD) provide unparalleled confidence to the market.

RICS is a body governed by Royal Charter.

RICS and the valuation profession.

RICS is a major sponsor of the International Valuation Standards Council (IVSC). A list of the major sponsor of the IVSC is below

The following organizations are listed as sponsors of the IVSC in 2012/13:

- [American Appraisal Associates](#)
- [American Society of Appraisers](#)
- [The Appraisal Foundation](#)
- [Appraisal Institute](#)
- [Appraisal Institute of Canada](#)
- [BNP Paribas](#)
- [Canadian Institute of Chartered Business Valuators](#)
- [China Appraisal Society](#)
- [City of London Corporation](#)
- [Deloitte Touche Tohmatsu](#)
- [Duff & Phelps](#)
- [Ernst & Young](#)
- [Grant Thornton](#)
- [Houlihan Lokey](#)
- [KPMG LLP](#)
- [Organismo Italiano di Valutazione](#)
- [Royal Institution of Chartered Surveyors](#)

RICS has been involved in the development of international valuation standards since the 1970's when RICS worked with American appraisers to create a set of trans-Atlantic valuation standards. From this work came the eventual creation of what is now known as the International Valuation Standards Council (IVSC)

The Australian Property Institute (API) notes within its valuation standards:

...members of a technical committee of the Royal Institution of Chartered Surveyors (RICS) and representatives of the U.S. appraisal profession began a dialogue in the late 1970s, which led to the founding of The International Assets Valuation Standards Committee (TIAVSC) in 1981. The Committee changed its name in 1994 to the International Valuation Standards Committee (IVSC).

RICS has also been at the forefront of developing international valuation standards used by RICS members globally. Known as the Red Book, the RICS Valuation Standards are used in over 140 countries and have been translated into seven languages.

RICS continues to develop standards and guidance for over 35 000 valuers which RICS accredits globally.

Submission

RICS would like to thank Land Information New Zealand and the New Zealand Government for the opportunity to make a submission on the Review of the Valuers Act 1948.

Answers to questions

Question 3: Do you agree with the proposal to constitute a new board which would include lay people with specialist expertise?

Yes.

Reforming the VRB under the model proposed would mean the board could function under its mandate within the Act to protect the public.

RICS believes a balance of lay persons to specialists is an effective way of ensuring that standards are maintained and that disciplinary action is balanced and fair. Certainly in New Zealand the example of the REAA is a good example of how a balance between professionals and lay people can assist a profession.

RICS believes that reviews and reformation of boards can be useful to the profession, provided that any change is in line with public expectations and the profession has adequate representation on any board.

The recommendation in the review to reform the current board from five to seven could be a workable model.

RICS, itself as mentioned in the preamble, applies self-regulation for all of our members.

The RICS Regulatory Board is constituted within the RICS Royal Charter, Bye Laws and Regulations. The Regulatory Board is an arms-length board with 11 members, five of the board are members of RICS, five who are lay persons and a chair who is, and must be, a lay person.

The RICS Regulatory Board's functions include but are not limited to:

- The determination and implementation of consumer and client protection policies including redress and compensation strategies
- The promotion of ethical and professional standards
- The disciplinary process to be adopted with taking enforcement action against Members
- The determination of the level of fines and the indicative sanctions to be used in the disciplinary process.
- Making rules in respect of the conduct and ethical standards expected of Members
- The powers of RICS to monitor, investigate and prosecute members
- Overseeing the delivery of fair regulatory processes by ensuring that there is proper separation and adjudicatory functions of the disciplinary process overseen by the Board.

Through the separation of our Regulatory Board from the Management Board RICS is able to deliver a frame work that ensures public confidence in the profession.

The Regulatory Board reports annually on its operations and all disciplinary matters are posted on the RICS website for public consumption. Disciplinary panel hearings are posted online.

Public surety in the profession, RICS believes, is paramount to ensuring better services from the profession.

RICS supports the proposal within the review; RICS would recommend that the composition of the valuer component of any renewed Board follows the current requirements within the Act, that the valuers representing the profession are appointed by the Minister.

Question 4: *Do you agree that it should be mandatory for registered valuers to join NZIV or any other professional association?*

New Zealand is quite unique in the structure of its requirements to enshrine and incorporate a professional association within an Act of Parliament. RICS is unaware of another legislative instrument such as the Valuers Act in New Zealand within the Asia Pacific region that so enshrines the mandatory membership to a professional body as does this Act.

Indeed in Australia the Queensland Valuers Registration Act does not mandate membership to a professional body. S30 of the Act notes that the qualifications for registration states under S30 (b) (i) that an applicant:

“holds a certificate of competence recognised by the board and issued by a prescribed institute.

The Valuers Registration Board in Queensland is charged to prescribe acceptable institutes, which include the Australian Property Institute, RICS and PINZ.

In Western Australia and New South Wales a professional body is prescribed within the Acts. Membership to a professional body may be a part of the process of registration, as in Western Australia where the Act states under S19 of the Act that the granting of a license may be issued by the Commissioner if the applicant is a member of the Australian Property Institute OR holds a “*degree, diploma, certificate or other award...*” that is approved by the Commissioner; in this instance Membership to RICS.

In other states and territories of Australia no Act exists for registration, where this is the case the market dictates the membership requirements acceptable to carry out valuations. A case in point is Victoria which is a completely deregulated state which allows the market to determine the requirements acceptable for valuation work.

Within the Asia Pacific region the Valuers, Appraisers and Estate Agents Act of Malaysia does not mandate a membership body within the Act, nor does it require membership of a body for registration within that jurisdiction.

However, RICS believes that within the New Zealand context that membership to “A” professional body is the best outcome for consumers and valuers. Unlike Australia the risk to the general public by the actions of a valuer is greater due to the processes of ordering a valuation which remains with the borrower.

Considering this, RICS believes that the prescription of membership to a professional body should be created.

RICS does not believe that the status quo is the best model in the present environment, rather RICS sees that membership of a professional body, approved by the Minister, under guidelines established by the Board or LINZ is a more relevant model.

To ensure that the public are protected RICS recommends that professional bodies would need to apply to the Minister for approval register as a professional association in New Zealand. The professional association would need to satisfy the Minister that the association has appropriate entry levels, ongoing CPD, enforceable disciplinary processes, rules of conduct and codes of ethics.

These are the same criteria that are used in other international jurisdictions for approval of a body to be a professional association. All of the above criteria should be rigour for any professional association of standing in the profession.

The public surety is determined by the rigour that is enforced in the registration process as mandated in the Act and the enforcement of those provisions by the Board. Provided that there is a safety net for complaints and transparent disciplinary processes which are

enforceable by a strong board, then the RICS believes that the current legislative model must be amended to allow other professional bodies to enter the market. RICS believes that sections 9 – 17 and section 23 of the Act should be repealed and that a new section be included that states that all registered valuers must be a member of a professional body.

The current structure also demands that the market is locked; in essence it is an anti-competitive environment. By mandating a specific body within the Act does not allow for a competitive environment in which professional associations can attract members on the basis of higher qualifications and services.

RICS in New Zealand has seen over the past three years an increase in membership; however this growth in membership is restricted because of the compulsory nature of membership to the NZIV.

As noted in the discussion paper the current membership costs for a valuer in New Zealand is approx. \$750 with additional costs for registration; those New Zealand valuers who wish, out of free will, to join RICS are faced with three sets of fees because they cannot freely move their membership to the RICS due to the current Government mandated membership requirements.

Multi professional bodies do operate in other jurisdictions.

In Queensland, for example, (under section 7.3 of the Guidelines) the Valuers registration board recognises certificates of competence/current membership of approved institutes as:

- The Australian Property Institute (API)
- RICS
- New Zealand Property Institute (PINZ)

As mentioned above Victoria, Malaysia, New South Wales and Western Australia all accept multiple membership bodies.

Professional associations like RICS, advocate the highest standards both for entry to the association, CPD, discipline and standards and guidance to the profession. Just as accountants can be Certified or Chartered Accountants so valuers could enjoy the standards of more than one organisation in New Zealand

Question 5: What if any issues do you think would need to be managed if professional association membership was voluntary?

Voluntary membership to a professional body, provided the registration process and complaints system is handled by government is rigid and enforceable, does not necessarily cause too many issues.

As pointed out in the previous question and as noted by LINZ, certain international jurisdictions have no requirement for membership at all within the market. Becoming a member of a professional association is voluntary.

In the United Kingdom, for example, no legislative instrument applies to mandate membership to a professional body. The market determines the membership standing of valuers.

As mentioned before the Victorian government deregulated the valuation profession and the market dictates what qualification is required to undertake a valuation.

The issue that may be of concern to the NZ Government in making membership voluntary is ensuring that valuers maintain the requirements of the Act in relation to registration, CPD, compliance and discipline. The government would need to resource the Board to an extent to ensure that the approximately 900 practicing valuers adhere to the requirements of the Board.

Professional associations can play a vital role in reducing costs to government by; assisting in ensuring that members of the association comply with government requirements, advising government on risks within the profession, providing services to members to ensure those members meet requirements, and advocating for the profession.

Question 6: *Do you think that the tiered complaints system could deliver the benefits outlined above? If not, why and do have any thoughts on how else those benefits might be realised?*

We believe that the model as structured by LINZ could deliver the desired outcome. We would request that an additional provision be included where the Board notifies the relevant professional association of any serious breach so that the professional association may take the appropriate action against their member.

This is currently the case in Australia with the Tax Practitioners Board. Complaints are sent to the board by the public, the board investigates the complaint and at the conclusion of the investigation the Board advises the professional body. The professional body then launches its own complaints process.

Question 7: *Do you think it is possible to reduce the reliance on check valuations and, if so, how might this be done?*

Anecdotal responses from members of RICS in New Zealand is that there will always be a place for check valuations in the disciplinary process; however there may be a way in which to streamline the process to save time not only for the valuer doing the check valuation but also for the valuer with whom the check valuation is being undertaken.

There should be a level of fairness in the process to ensure that the valuer with whom the complaint is being levelled has a reasonable turn around in the process to allow for a suitable defence.

Question 8: *Is the range of sanctions proposed above adequate? If not, what other sanctions would be appropriate?*

RICS believes that the sanctions as proposed are adequate. Should a complaint be sent to a professional association then the association can add further sanctions.

Question 9: *Is there a need for compliance monitoring and if so by whom?*

RICS can, and does, monitor compliance of valuers. RICS established a scheme internationally to monitor compliance of our valuers to our international valuation standards (Red Book).

This compliance regime is conducted by the RICS Regulatory Board, an arms length board established by RICS.

The scheme is an independent system of regulatory monitoring, which includes a register of valuers. Monitoring by RICS Regulation begins as soon as members sign up to the scheme.

An automatic risk score is established for the individual member and firm. Should any risks come to light; RICS monitoring staff will make an initial assessment. Further investigation will follow, including checking information against Red Book requirements and the processes and audit trails that firms have in place.

RICS Regulation also provides advice and guidance as a core part of the process and free continuing professional development to help all its members to comply with their professional and statutory duties. Its aim has always been to ensure that the international valuation standards that underpin so much economic activity are being maintained and correctly applied.

RICS provides best practice to valuers under the scheme, which includes

1. Confirm the valuer's qualification and demonstrate expertise and competence in areas of skill, knowledge and/or geography
2. Confirm conflict of interest checks
3. Terms of engagement

4. Inspection notes
5. Record, reference and analyse comparables
6. Quality of reports - meet RICS standards and/or clients' specialist requirements
7. Manage your files
8. Establish quality assurance processes
9. Link comparables with the valuation figure
10. Valuation calculation or methodology

RICS Chartered Valuation Surveyors are required to be a part of the scheme and compliance is undertaken by the RICS Regulatory Board under the RICS Rules of Conduct. Those who are part of the scheme are required to provide information to RICS under the Rules of RICS and failure to do that can lead to investigation and disciplinary action by RICS.

RICS would be happy to discuss the process with LINZ at a later date should this be required.

Question 10: *Do you agree with the proposal for the VRB to undertake more analysis of complaints and outcomes? Why/Why not?*

Yes.

As the VRB is being positioned under this review to have greater complaints procedures and better enforcement, as well as driving toward greater transparency we believe that the VRB should also be charged with undertaking analysis of complaints and outcomes.

This would provide the public with better information on the number and level of complaints and provide them with the surety that a disciplinary system works.

It would also aid professional associations in determining risk assessments for members and determine CPD requirements to ensure that valuers are up to date with their professional development which in turn should minimise the risk to the consumer.

The REAA currently undertakes such analysis in New Zealand and this transparency has seen a decrease in complaints.

Similarly RICS records all complaints that advance to a disciplinary hearing, records all consent orders and fines and makes public any disciplinary hearing where the outcome is the expulsion of a member.

RICS keeps records of these outcomes on the RICS website for anywhere up to 5 years.

Understanding of complaints and outcomes assists the profession in ensuring that risks are identified early and can be circumvented.

Question 11: Do you agree that “registered valuer” should be the only protected title? Why/Why not?

Yes.

The public valuer title is rarely used and having two titles only causes a general confusion with the public.

Question 12: Do you think it necessary or desirable to change the existing registration period and/or registration renewal requirements? Why/Why not?

There seems no reason to change the current status quo of registration periods to a 5 year period.

LINZ may consider a medium period of say 3 years in the registration timeframe.

With reference to the requirements for registration we agree that CPD should be a mandatory requirement for renewal; however the requirement for a statutory declaration seems too cumbersome.

RICS suggests that ongoing membership to a professional association and a completion certificate issued by that professional association that the valuer has undertaken CPD for the period should be sufficient.

RICS requires members to obtain 20 hours of CPD in a twelve month period. This is recorded online with RICS and is monitored by RICS Regulations. RICS can monitor members' compliance and issue warnings and other information to the member for failure to comply. Members can also download a PDF of their CPD directly from the RICS website and this could be used as a completion record for the VRB

A receipt of membership fees to a professional association should satisfy the board that the valuer is a fit and proper person. RICS can receive complaints on members and should the member not be a fit and proper person then RICS can take action including expulsion from RICS.

Requests from the VRB to the professional association for any information on complaints or issues on valuers could be an option as opposed to valuers seeking to complete statutory declarations.

Question 13: If you answered “yes” to the above question, please indicate whether you prefer one or other of the suggested approaches or another approach?

Please see above answer

Question 14: Should CPD be mandatory? Why/why not?

Yes. CPD is a tool by which risk is managed by the professional for the public. CPD ensures that professionals remain competent with their skill sets and ensures that the professional is compliant with any changes of legislation, standards or other requirements in the market.

There are examples in other professions in other jurisdictions where CPD was not mandatory for professionals and the consequences of that put the general public at risk.

In Victoria, Australia, Building Surveyors were not required to undertake CPD as part of their licensing regime. The end result was that buildings were being certified by undertrained and untrained registrants who had no updated knowledge of building code changes, council requirements or safety standards; this resulted in damaged buildings and risks to the public.

RICS mandates that members maintain a high level of CPD to ensure they remain competent in their professions.

Question 15: Do you agree with the proposal for setting practice standards? Why/Why not?

Yes.

RICS believes that the profession is the best place to develop practice standards and guidance notes for the profession, rather than having legislated requirements.

Question 16: Do you agree with the proposal for setting ethical standards? Why/why not?

No.

While understanding the point of the LINZ that ethics is a high priority we believe that government setting ethical standards will not be effective for several reasons:

- It would create double handling. Any professional association will have enforceable ethical standard by which its members must maintain and adhere to. Government would have to source ethical standards that are relevant to the profession and the best place to do this would be with the professional associations already in New Zealand.
- Confusion on which ethical standards would apply. Government or professional association?
- Who would provide assistance on ethical standards? Currently RICS can provide advice to members with questions on ethics, if

government creates ethical standards it would also have to provide staff to advise on those ethical standards, for example conflict of interest.

- Changing ethical standards. Legislation is slow to change however RICS is aware that ethics can change quicker than what legislation can change
- Move to global ethical standards. There is a move globally to try to establish a set of global ethical standards in property. Should this manifest where would mandated codes sit?

Question 17: *Do you agree that the minimum age requirement should be removed?*

Yes.

RICS believes that a valuer should be able to register based on their competency to work in the profession rather than based on age.

Question 21: *Do you think the three year supervised experience period for New Zealand Graduates is too long? If so, how long should the experience period be?*

RICS agrees that three years is too long before registration. Industry norm is two years.

RICS requires recent graduates to undertake 24 months of supervised experience before becoming a Chartered Surveyor (the review paper states that in the UK the period is less than 24 months, which is not the case for recent graduates with less than 5 years industry experience)

Other professional association also require 2 years' experience before gaining recognition – see API.

The Queensland example is the closest to industry standards, while it is difficult to compare any relationship to NSW due to its lower entry level of 2 years part time Advanced Diploma as a qualification.

RICS members must complete the RICS Assessment of Professional Competence (APC) which is a two year structured training model. Candidates are under the guidance of both a supervisor (usually a line manager) and a counsellor, a professional usually removed from the workplace and an RICS member.

Trainee RICS members can undertake the actual work of a valuer on the proviso that the valuation is signed off by a qualified Chartered Surveyor. This is also a practice within the API where graduates can complete work under supervision and the valuation signed off by an AAPI-CPV or above.

Question 22: *Do you favour a tiered registration system that provides for provisional registration (with less experience and other requirements) as well as full registration?*

No.

If the requisite time before registration was reduced to two years structured learning and the age requirement is abolished, and that structured training is specific and focussed, and that the option to reapply should a candidate for registration not achieve a first result is less onerous than additional tiering would not be required.

Question 23: *Should the requirement for overseas valuers to have at least one year's practical experience in New Zealand be retained?*

Yes.

This will maintain that valuers entering New Zealand have the requisite knowledge of New Zealand law and practice to undertake valuations and ensure public confidence in those valuations.

Question 24: *Do the existing degree courses and post graduate training requirements provide registered valuers with the expertise required to do sum insured valuations?*

RICS will preface this answer by stating that as the international peak body for quantity surveyors, it is our opinion that sum insured work is best done by quantity surveyors. Quantity Surveyors, specifically Chartered Quantity Surveyors, have the requisite professional skill sets in construction to give a better estimation of replacement costs.

In saying this, RICS is aware that building surveyors and valuers are undertaking this work – to that end RICS believes that for valuers to be prepared to undertake replacement cost work, information and learning should be undertaken at a university with access to QS lecturers or QS professionals who can navigate the valuer around the sum insured issues.

The risk to the public is, without specialised training, estimations of replacement costs would be done by under qualified professionals who would only use a reference to a building cost publication with an add on percentage amount, and not provide the detailed work that is required.

Question 25: *Is there a need for practice standards covering sum insured valuations?*

RICS is currently undertaking a task to issue a guidance note on this matter which will be ready for publication shortly.

Question 26: *Could registration be reduced for some types of valuations?*

Please see our response in regards to registration in Question 21. If the number of years to obtain registration is reduced to 2 years from three then this would cover this question.

Question 27: *Are the current registration requirements excessive for valuers who only carry out residential valuations? What would the risks and benefits to consumers if the requirements were reduced?*

No.

In a changing property landscape the definition of 'residential' is changing and with that the skills necessary to undertake those valuations.

Residential can mean multi-storey developments, mixed used developments or other forms of residential living,

If, as noted in our response to Question 21, if the registration time is reduced to 2 years from three then all valuers would receive a requisite level of training that would apply to their area of expertise and not require different registration starting or finishing points.

Question 30: *Do you think any changes are required to the existing professional indemnity insurance arrangements?*

RICS agrees that the current arrangements need to change in relation to professional indemnity.

RICS members are required to carry PII as part of their membership.

RICS would favour mandatory PII for valuers in New Zealand.

Question 31: *If so, do you favour either of the options outlined above or have an alternative suggestion?*

While RICS agrees that PII should be mandatory under the Act we do not agree with setting a cap under the legislation.

Capping of liability can work, as has been shown in Australia; however it should not be for the VRB or the Valuers Act to mandate what a capped level should be.

In Australia professional associations can apply to the Professional Standards Council, a statutory council established within the Attorney General's department to carry a capped liability scheme.

The process requires professional associations to provide the council with information on claims data over a ten year period, information on the association's membership requirements, CPD, codes of conduct and ethics, and risk management.

Setting a ceiling on liability cannot simply be defined by setting numbers, setting a ceiling is determined by evidence from claims and from what a court would reasonably expect.

RICS is currently submitting an application to the Professional Standards Council in Australia and we would be happy to explore this issue in more depth with the VRB and LINZ if required.

RICS would again like to thank the LINZ for the opportunity to contribute to this review, and we would be happy to work with the LINZ and the New Zealand Government on ways in which to advance the valuation in New Zealand.

Should LINZ have any questions in relation to this submission, or, wish to discuss this submission or parts of it, please do not hesitate to contact:

