

29th August 2019

Email: TPBreview@treasury.gov.au

Mr. Nick Westerink
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600



Dear Mr. Westerink

Re: Review of the Tax Practitioners Board – Discussion Paper July 2019.

The Australian Institute of Conveyancers NSW Division Ltd (AICNSW) welcomes the opportunity to provide a further submission in the process of review by the Australian Government Treasury of the Tax Practitioners Board (TPB). We are also appreciative of the invitation to attend the meeting at The Mint on 16th August in which we had an opportunity to discuss our feedback with Keith James and other attendees.

AICNSW is the representative professional body for NSW Licensed conveyancers. Licensed conveyancers in NSW are regulated by NSW Fair Trading and the NSW Office of the Registrar General.

The incursion of Federal Taxation Laws into the legal practice of conveyancing has, as with other legal practitioners, meant that taxation law, the GST and the FRCGW, have become a core part of the legal process of conveyancing and consequently part of an NSW Licensed conveyancers work.

As detailed in our letter of 23rd April 2019, NSW Licensed conveyancers have a regulatory approved scope of work the same as an Australian Legal Practitioner (ALP) which includes administering documentation and collecting taxes in relation to the Foreign Resident Capital Gains Withholding (FRCGW). When the FRCGW measure was introduced the Tax Practitioners Board (TPB) advised that Licensed Conveyancers could be in breach of the Tax Agents Services Act 2009 (TASA) in carrying out these tasks. This created confusion with conveyancer practitioners and created inconvenience for their clients.

We welcome and support the view of the ATO expressed at 5.21 in the July 2019 Discussion Paper that *“TPB regulation should not extend to those intermediaries where the services they provide is to act solely as a conduit between the ATO and the entity of individual providing the tax “.*

The introduction of the FRCGW legislation is an example of the Tax Agent Services Act 2009 (TASA) *“unnecessarily capturing some tax practitioner”* in the broad definition of *“tax agent service”* as defined in section 90-5 of TASA. Accordingly, we are supportive of the views of the TPB expressed in 5.23 as NSW Licensed conveyancers are regulated and accordingly, we

would strongly support 5.26 for *“the TPB to publish a determination that excludes certain tax intermediaries from registration”*. NSW Licensed conveyancers must be included in that determination.

We would also suggest and consistent with the exclusion of *“certain tax intermediaries form registration”* that TPB review their website and support materials to ensure consistency with such communications. This was clearly articulated in our submission of 23rd April 2019.

NSW Licensed conveyancers perform important functions on behalf of their clients in their interaction with the ATO (and NSW Revenue offices). Our members are a significant element in the conveyancing transaction and with the significant amount of change (electronic conveyancing, new foreign resident taxation and revenue legislation and processes etc.) that has been imposed in the past few years any streamlining of process assist our members in ensuring clients receive the best possible consumer experience.

We look forward to positive changes emanating from this review which will improve conveyancers’ and lead to improved client service.

We appreciate the stakeholder engagement that has been a positive feature of the TPB review process.

Yours Sincerely

A handwritten signature in dark ink, appearing to read 'Chris Tyler', written in a cursive style.

Chris Tyler
CEO
AICNSW