

From: Georgia Harris [REDACTED]
Sent: Wednesday, 16 June 2021 10:26 AM
To: Martin, Jaime <jaime.martin@acc.gov.au>; Cicchini, Alex <Alex.Cicchini@acc.gov.au>
Cc: Nicole Platt [REDACTED] Channing, Darrell <darrell.channing@acc.gov.au>; Jessica White [REDACTED] Carina Zeccola [REDACTED]
Subject: RE: Application for Authorisation (Revocation and Substitution) - Australian Property Institute Limited - Submission [SEC=UNOFFICIAL]

Dear Alex and Jaime

Please see below our client's responses to the two clauses requiring clarification, adopting the same numbering system as your email dated 8 June 2021.

1. Annexure F – API Rules of Professional Conduct: Section 9, clause 9.1.

(a) Situations API anticipate the clause being used for

It is API's view that this provision will rarely be used and remains substantively the same as initially drafted and approved by the ACCC in its previous authorisation. This non-compliance or departure clause is contained at Rule 8 (page 9) of API's Code of Professional Conduct dated 15 June 2015.

The purpose of the clause is to clearly inform the reader of any factors which may affect the reliability of information within the report.

(b) Specific requirements about the form of written statement referenced in this part

There are no specific requirements about the form of the written statement referenced in this part. However, the statement is subject to the general requirement that all disclaimers and qualifications included in a valuation report must be clear and accurate. This requirement is derived from API's Professional Standards, and must be complied with as a membership obligation in accordance with Section 2(e) of API's Membership Policy and as a valuer obligation in accordance with Rule 10.2 of API's Rules of Professional Conduct (**Rules**). The non-compliance clause is further backed by Section 11.5(e) of the Rules, which requires valuers to produce a statement of the extent to which any failure to ascertain or verify facts or information qualifies or affects the valuation being provided.

(c) Impact of this non-compliance provision

The purpose of this non-compliance provision is to inform the consumer of the consequences, if any, that departure from or non-compliance with the Rules would have on the content of the report, or reliability of information contained in the valuation report. It is essentially a risk-management tool, a way of communicating to the consumer if there are any risks associated with the report.

A valuer invoking this provision does not automatically trigger a cause for a consumer complaint or expose the valuer to allegations of professional misconduct.

2. Annexure G – Professional Conduct Committee Charter: Section 4, clause 4.5

(a) Situations API anticipate the clause being used for

API anticipate that this clause 4.5 may be invoked where the expertise of individuals with specialised knowledge, being non-API members is required. For example, in a professional misconduct matter, the expertise of a legal practitioner may be useful in providing a unique legal perspective on the nature and consequences of an alleged breach. To this end, clause 4.5 grants the Board discretion to appoint individuals who are not API-members.

(b) Reasons why API Board may appoint a non-member to the Professional Conduct Committee

API are of the opinion that non-API members with additional, valuable, specialised knowledge may be of assistance in professional misconduct matters. For example, a non-API member who is a legal practitioner or financial expert could provide unique insight and perspective on the handling and resolution of professional misconduct matters. Clause 4.5 naturally should be read in conjunction with clause 4.6, which mandates that the Committee must be comprised of a majority of API members.

Please don't hesitate to contact me if you require anything further.

Otherwise, we look forward to receiving the ACCC's draft determination next month.

Regards

Georgia Harris | Paralegal | Griffin Legal

P [Redacted]
E [Redacted]

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