



**AGENTS LICENSING BOARD OF THE NORTHERN TERRITORY**

**REASONS FOR DECISIONS FOLLOWING INQUIRY CONCERNING  
DISCIPLINARY ACTION AGAINST COTSWOLD PROPERTY  
INVESTMENTS PTY LTD TRADING AS MARSH CONVEYANCING  
AND LORRAINE MARSH**

<b>Respondents:</b>	Cotswold Property Investments Pty Ltd trading as Marsh Conveyancing Lorraine Marsh
<b>Date and time of hearing:</b>	23 July 2025, 10am, 17 September 2025, 2pm
<b>Venue:</b>	Binybara Room Level 6 22 Mitchell Street, Darwin
<b>Reason for Inquiry:</b>	To hold an inquiry pursuant to section 68(4)(b) of the <i>Agents Licensing Act 1979</i> to determine if there are grounds for disciplinary action to be taken against Cotswold Property Investments Pty Ltd (trading as Marsh Conveyancing) and Lorraine Marsh (branch/business manager).
<b>Agents Licensing Board:</b>	Robert Bradshaw, Chair Lea Aitken, Board Member (Consumer) Trevor Tschirpig, Board Member (Conveyancer) Jake Quinlivan, Board Member (Departmental) Naomi Irvine, Board Member (Conveyancer)
<b>Representation:</b>	Nil
<b>In attendance:</b>	Lorraine Marsh, respondent business manager by video). Kevin Kadirgamar, Department of Trade, Business and Asian Relations, Counsel Assisting

### **Introduction**

1. On 9 May 2025, the Agents Licensing Board (the Board) considered a report from the Registrar of Land, Business and Conveyancing Agents (Registrar) which noted that audit reports relating to Cotswold Property Investments Pty Ltd's trust accounting records had not been provided to the department for the following periods:
  - 1 July 2021 – 30 June 2022

- 1 July 2022 – 30 June 2023
  - 1 July 2023 – 30 June 2024.
2. Based on the information provided, the Board resolved to hold an inquiry under section 68(4)(b) of the *Agents Licensing Act 1979* (AL Act), to determine whether there are grounds under section 67 of the AL Act for disciplinary action to be taken against Cotswold Property Investments Pty Ltd Trading as Marsh Conveyancing (Cotswold) and Lorraine Marsh (business manager) (also referred to as the respondents).
  3. This decision followed consideration of the issues by the Board at its meeting of 19 December 2024. At that meeting the Board determined that the Registrar should urge Cotswold to complete the audits with advice that the issues would be considered at the next meeting of the Board.

### ***Notification of inquiry***

4. On 26 May 2025, the business manager was notified of the Board's decision to hold an inquiry into Cotswold and into her conduct as business manager).
5. In response to an earlier request for more time, the business manager was advised that the Board had considered the matter and determined to hold the inquiry; however, noted that the inquiry would likely not be scheduled until July 2025 (by which time the business manager had indicated that the audits would be up to date).

### ***Provision of draft inquiry book and information from respondent***

6. On 17 June 2025 the business manager was provided with a copy of the draft inquiry book (including the matters to be inquired into) and was asked to provide comment by close of business 1 July 2025.
7. On 30 June 2025, an email was sent by the department to the business manager reiterating that submissions to the inquiry were due by 1 July 2025, and requesting that the business manager reach out if there were any issues.
8. No response was received from the business manager as at 11 July 2025

### ***Licensing history***

9. Cotswold currently holds a company conveyancing agent licence (CAL1014), valid from 17 February 2022 to 16 February 2028.
10. Cotswold has previously held the following company conveyancing agent licence in the Northern Territory:
  - CAL104 from 21 July 2009 to 28 November 2021.

11. Lorraine Marsh is the sole Director of Cotswold and holds an individual conveyancing agent licence (CAL1015) valid from 17 February 2022 to 16 February 2028. She previously held the following conveyancing agent licence in the Northern Territory:

- CAL103 from 21 July 2009 to 28 November 2021

### **Role of Agents Licensing Board**

12. The AL Act regulates the licensing and conduct of real estate agents, business agents, and conveyancers. This Act outlines the requirements and obligations for agents operating in these sectors, including provisions for licensing, conduct, trust accounts, and dispute resolution.

13. Section 64A of the AL Act provides that regulations may prescribe rules of conduct for real estate agents.

14. Section 65 of the AL Act provides that a 'licenced agent must not breach the rules of conduct'.

15. The rules of conduct for agents are set out in Schedule 4, Part 1 (general rules) of the Agents Licensing Regulations 1979 (AL Regulations). Rule 8 of Part 1 provides "an agent must not breach any provision of the Act or the regulations".

16. The Board may take disciplinary action against a licensed agent on one or more of the grounds outlined in section 67 of the AL Act. In particular, the Board may take disciplinary action if:

- (c) the licenced agent has been guilty of a breach of the rules of conduct for agents'
- (m) any other reasonable ground which, in the opinion of the Board, is sufficient to warrant revocation of the licence of the agent.

17. Section 68(4) of the AL Act provides that the Board shall hold an inquiry where '(a) an application for disciplinary action to be taken against a licensed agent is lodged in accordance with this section or (b) the Board considers that there may be grounds under section 67 for disciplinary action to be taken against a licensed agent'.

18. The powers of the Board after the inquiry are outlined in section 69 of the AL Act. It provides:

- (1) If, at the conclusion of an inquiry conducted under section 68(4), the Board is satisfied that it is authorised to take disciplinary action against a licensed agent, the Board may do one or more of the following:
  - (a) reprimand or caution the agent;
  - (b) by written notice, impose a fine not exceeding 50 penalty units on the agent;
  - (c) by written notice, suspend the licence of the agent until the expiration of the period, or the fulfilment of a condition, specified in the notice;

(d) by written notice, revoke the licence of the agent.

19. The inquiry hearing and process is governed by section 77 of the AL Act. The procedure is at the discretion of the Board, parties may be legally represented, and the Board is not bound by the rules of evidence but may inform itself in such manner as it thinks fit.

### **Details of alleged conduct**

20. Cotswold was required to have opened and maintained a trust account for the duration of its licence (under sections 50(1) and (2) of the AL Act).

21. The department has the details recorded in its electronic licensing system as the notified trust account details for Cotswold Property Investments Pty Ltd with the National Australia Bank (NAB)).

22. In accordance with sections 59 and 60 of the AL Act, Cotswold was required to have its accounts audited by a registered company auditor by 30 September each year, and the auditor was required to make a report to the department under section 62.

23. The last audit report the department has record of receiving in relation to Cotswold was for the period 1 July 2020 – 30 June 2021.

24. The department is in receipt of monthly reporting from the National Bank of Australia relating to section 50 trust accounts, including the account held by Cotswold from December 2022 to June 2024 (excluding February 2024).

25. The relevant reports show funds held in Cotswold trust accounts during each reporting month.

### ***Reminders about obligations***

26. Between 15 September 2023 and 4 October 2024, the department reminded the business manager (in her capacity as business manager for Cotswold ) on three occasions of the need for Cotswold to have its accounts audited.

27. In response to two of the reminders (occurring 17 October 2023 and 4 October 2024), the business manager wrote to the department advising the relevant audit reports were being arranged.

28. There were further reminders during the period December 2024 and May 2025.

29. The details of these reminders and responses are set out in the following chronology.

### **Chronology**

30. The following is a chronology of events relating to the department's engagement with the business manager relating to Cotswold's trust accounting obligations for the outstanding periods:

Date	Event
15 September 2023	Correspondence was sent by the department to individual agents and company agents, including the business manager (on behalf of Cotswold), to remind agents of their requirement to provide trust account audits by 30 September 2023. No response was received relating to Cotswold.
17 October 2023	<p>The department emailed the business manager advising that the audit report for the 2022/2023 year was outstanding. the business manager responded the same day stating:</p> <p style="text-align: center;"><i>Thank you for your email. I am chasing the Auditors and hope to have this to you by the end of the week</i></p>
4 October 2024	The department emailed the business manager to advise that the audit reports for Cotswold were outstanding for 2022/23 and 2023/24. the business manager responded the same day, advising that she had been unwell and was liaising with auditors to finalise the outstanding audit reports, and requested that she be given until the end of November 2024 to provide the correspondence.
7 October 2024	The department advised that provision at the end of November 2024 could be accommodated
14 January 2025	The Registrar emailed the business manager and strongly urged her to ensure that the audit reports for the outstanding periods be finalised and provided for the Board's consideration by no later than 28 February 2025. The business manager was also asked to respond to confirm receipt of the correspondence.
21 January 2025	A departmental officer telephoned the business manager to confirm receipt of the 14 January correspondence. The business manager advised that she had not received the correspondence. The department confirmed with the business manager that her best contact was lorraine@marshconveyancing.com.au (the address that the original correspondence had been sent to). At the business manager's request, the earlier correspondence was forwarded to the same email address.
28 February 2025	The department contacted the business manager by email to enquire about the status of the audit reports.

	<p>The same day the business manager responded to the department advising that she did not yet have the audit reports, and asked if she could have a two-week extension of time.</p> <p>The same day, the department responded to advise the business manager that the timeframe for lodging of audit reports was legislated and there is no ability to extent the timeframe. the business manager was reminded that the Board would be considering her matter at its next meeting (then scheduled for April 2025) and encouraged to provide her audit report as soon as possible.</p>
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### **Relevant legislative provisions**

31. The Board may take disciplinary action against a licensed agent on one or more of the grounds outlined in section 67 of the AL Act. In particular, the Board may take disciplinary action if a licensed agent has been guilty of a breach of the rules of conduct for agents' (section 67(1)(c) of the AL Act. The Board may also take disciplinary action on "any other reasonable ground which in the opinion of the Board, is sufficient to warrant revocation of the licence of the agents" (section 67(1)(m) of the AL Act).
32. Part V, Division 1 of the AL Act sets out the requirements relating to trust moneys and the maintenance and operation of trust accounts, including an agent's requirement to:
- hold all money received by a licensed agent in their capacity as an agent and in the course of their licensed business, as well as any money received by the agent as a stakeholder, in trust.
  - open a trust account (that accords with the requirements of section 50) within 7 days of a licence being granted (s50(1))
  - maintain a trust account (that accords with the requirements of section 50) while licensed (s50(2))
  - within 7 days of opening any subsequent accounts under section 50, notify the Registrar (s51)
  - pay all trust moneys received by the agent into a trust account as soon as practicable (s52(1) and (2))
  - not withdraw money from a trust account except for authorised purposes set out in the Act (s52(4)(c)).

33. Part V, Division 3 of the AL Act sets out requirements relating to audit and inspection of trust accounts.
34. Section 59(1) of the AL Act provides that 'a licensed agent shall ensure that the agent's accounting records relating to trust moneys received and paid by the agent during the prescribed period are audited within 3 months after the expiration of each prescribed period.' There is a maximum penalty of 20 penalty units or imprisonment for 3 months for contravention of this section.
35. Section 59(1A) of the AL Act then provides that 'it is a defence to a prosecution for an offence against subsection (1) if the licensed agent charged with the offence proves that: (a) the licensed agent engaged an auditor to carry out the audit at a time when the auditor would reasonably be expected to complete the audit within the period specified in that subsection, but the auditor had failed to do so; and (b) a written statement was forwarded to the Registrar by the auditor or the licensed agent before the expiration of the period specified in that subsection setting out the reasons for the auditor's failure to complete the audit and specifying the period within which the audit will be completed'.
36. "Prescribed period" for the purposes of Division 3 (audit and inspection of trust accounts) is defined at section 58 of the AL Act and means:
- (a) the period of 12 months ending on 30 June in each year; or
  - (b) the period of 12 months ending on such other dates as the licensed agent specifies, by notice in writing lodged with the Registrar, to be the date in each year for the purpose of this Part.
37. Section 61 requires an agent, for the purposes of an audit, to (a) produce to the auditor records relating in any way to trust moneys received during the relevant period and (b) to provide information and answers to the auditor in relation to the auditor's questions about the records. There is a maximum penalty of 50 penalty units or imprisonment for 6 months (for a natural person) or 500 penalty units (for a body corporate) for contravention of this section.
38. Section 62 requires the auditor to, as soon as is reasonably practicable, after the completion of an audit pursuant to section 59, prepare a report of the result of the audit, and deliver the report to the licensed agent and the Board. There is a maximum penalty of 20 penalty units for contravention of this section.
39. Regulation 18 provides that obligations imposed by Part V of the Act or the Regulations on a licensed agent which is a company are to be imposed jointly and severally on a licensed agent who is a business manager, employee or director of the company.

40. Board policy 00/23 (19 November 2007) provides that a licensed real estate and/or business agent who is the employee of another agent, is for as long as that employment continues, exempt from the requirements relating to trust moneys and account and agent's records under Part V of the AL Act.

### *Conduct*

41. Section 64A of the AL Act provides that regulations may prescribe rules of conduct for real estate agents. The rules of conduct are set out in Schedule 4 of the Agents Licensing Regulations 1979 (AL Regulations). The Real Estate Institute of Northern Territory (REINT) has also published a voluntary code of conduct titled 'Real Estate Practitioners Code of Conduct' (Code of Conduct). This code was designed to 'set boundaries of acceptable conduct in real estate practice and define minimum standards of behaviour expected' of its members.

42. Section 65 of the AL Act provides that a 'licensed agent must not breach the rules of conduct'. Section 65(4) provides that a company or firm is guilty of a breach of the rules of conduct for agents if: (a) the company or firm is a licensed agent acting on behalf of a client; and (b) a director or employee of the company or firm does an act, or fails to do an act, or attempts to do an act, the doing of, or the failure to do, which would, if the director or employee were a licensed agent, make the director or employee guilty of a breach of the rules of conduct for agents. Breaches of the REINT code are, under the AL Regulations, also breaches of the rules of conduct.

### *Responsibilities of business managers*

43. Section 110A(1) of the AL Act provides that 'a licensed agent must ensure that there is at all times in the agent's service a business manager, who is a licensed agent appointed by the agent, in respect of each office of the business carried on under the licence.' Section 110A(5) of the AL Act then provides that a 'business manager must ensure that he or she exercises substantive and effective control of the day-to-day operations of an office in relation to which he or she was appointed'.

44. Section 110A(5) of the AL Act obliges business managers to have effective and substantial control over the business carried on under the licence.

45. Regulation 18 of the Agents Licensing Regulations 1979 provides that:

*"A provision of Part V or XII of the Act or these Regulations that requires a licensed agent to do, or to refrain from doing, an act or to carry out an obligation shall, in the case of a licensed agent which is a company or firm, be read as imposing jointly and severally on:*

*(a) in the case of a company which is a licensed agent – a licensed agent who is a branch manager<sup>1</sup>, employee or director of the company; ...*

*a like requirement to do, or to refrain from doing, the act or to carry out the obligation, as the case may be, in relation to the business of the licensed agent.”*

## **Consideration**

46. The issues that the Board inquired into are:

- a. Whether Cotswold and Ms Lorraine Marsh as its business manager and director, breached section 59(1) of the AL Act (and therefore contravened Rule 8 of the rules of conduct) by failing to ensure that the company’s accounts were audited by a qualified auditor within three months of the end of the prescribed period, for each of the following periods:
  - 1 July 2021 – 30 June 2022
  - 1 July 2022 – 30 June 2023
  - 1 July 2023 – 30 June 2024
- b. Whether there is any other reasonable ground which is sufficient to warrant revocation of the licence of Ms Lorraine Marsh based on her conduct as business manager for Cotswold Property Investments Pty Ltd, particularly with respect to her responsiveness, diligence, and truthfulness in dealing with the department, and her actions or omissions that may have led to any breach by Cotswold Property Investments Pty Ltd.

## **Hearing**

### ***Materials before the Board at the hearing***

47. The following materials were placed before the Board:

- Inquiry Book
- Appendix 1 to the Inquiry Book containing the following documentation referenced in the Inquiry Book:
  - Copies of licence certificates and related matters
  - Correspondence between the department and Lorraine Marsh
  - reports from NAB provided to the department showing that transactions that were occurring in the various trust accounts.
  - Oral testimony by Lorraine Marsh on 23 July 2025 and 17 September 2025

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<sup>1</sup> This is taken to be a reference to the business manager

48. On 23 July 2025 the Board conducted a hearing.
49. Lorraine Marsh attended the hearing and was sworn in for the purposes of the presentation of her evidence.
50. On 17 September 2025 the Board reconvened for a further hearing.

***General principles in disciplinary matters***

51. The purpose of disciplinary proceedings is to maintain proper ethical and professional standards, primarily for the protection of the public, but also the protection of the profession.
52. In occupational disciplinary matters, an issue needs to be proven to the reasonable satisfaction of the decision maker, having regard to the seriousness of the allegation made, the inherent unlikelihood of the occurrence of a given description (or the inherent improbability of an explanation) or the gravity of the consequences flowing from a particular finding.

***Lorraine Marsh's general explanations***

53. Lorraine Marsh agreed that the audits had not been provided.
54. At the hearing Lorraine Marsh explained that during the period when the audits were not completed she was experiencing severe personal problems (relating to her health).
55. In respect of the reasons for the non-completion of the three outstanding audits Lorraine Marsh provided various explanations at the hearing of 23 July 2025. In summary they are:
  - (a) 2021/22 audit: she believed this audit had been completed and lodged with the department by her auditor. It was not until she provided information to the auditor for 2022/23 did she find out (from the auditor) that the initial audit had not been completed. Lorraine Marsh believes that the auditor has all the relevant information. As at the time of the hearing she could not say why the audit had not been completed.
  - (b) 2022/23 audit: information has been provided to the auditor. Auditor has asked many questions, every time she gives information the auditor comes back with more questions. This appears to be ongoing (i.e. in 2025).
  - (c) 2023/24 audit: auditor cannot do this until the audit for 2022/23 is completed
  - (d) The auditor has been paid for each of the three audits (\$800 plus GST)
  - (e) Her inaccurate response that the audit would be done within a week was made on the assumption that this would be done in a week because they had all the information.

- (f) The auditor had queries related to the fact that the bank statements did not correlate with the accounting package ("Banklink"). Her main explanation was the poor quality of the package plus incorrect inputting of data. Currently she is working through the data in accordance with advice provided by her own accountant.
- (g) As at the date of the first hearing (July 2025) the position was that she was halfway through fixing the 2022/23 data and intends to have it done in 14 days (from a day in mid July 2025) hoping to get son on board. She said that she would be willing to provide evidence of the current state of play concerning provision of information – e.g. what is outstanding when is expected to be done, narrative of what is the position for each of the years, why so long outstanding, what happened etc to the auditor. The branch manager advised that she was not sure why 2021/22 has not been completed and said that she was going to follow up on this

- 56. The Board notes that the respondents were not contacted by the Department concerning outstanding audits until September 2023.
- 57. In response to questions/requests from the Board, Lorraine Marsh agreed at the hearing of 23 July 2025 to provide a narrative by 5 August 2025 from the auditor about the state of play with the audits.
- 58. For the future Lorraine Marsh advised that she:
  - (a) will arrange for half yearly audit
  - (b) plans to employ son – who has a basic knowledge of conveyancing (but not qualified).
- 59. At the end of proceedings on 23 July 2025 the Chairperson of the Board stated that Lorraine Marsh should assume that the Board will find her guilty of a breach and will decide about penalty when Lorraine Marsh provides the information sought.
- 60. In effect the inquiry was adjourned pending the further information to be provided by the business manager.
- 61. Subsequently (August 2025) , two of the audits have been provided.
- 62. The auditor, for each of the years 2021/22 and 2022/23 states:

*“The agent has failed to maintain accurate trust records, constituting a breach of section 62(2) of the Agents Licensing Act 1979 (NT). The trial balance as at (previous) 30 June does not reconcile with the*

*corresponding bank reconciliation, as shown in the attached documents. This discrepancy indicates a failure to properly record and account for trust monies as required under the Act”.*

63. The audit for 2023/24 does not appear to have been completed.
64. At the reopening of the inquiry on 17 September 2025 the business manager indicated that she regretted providing the audits to the Board prior to attempting to sort out the problems with the assistance of her accountant. She says that the audits were provided to show that a real effort was being made to have the audits completed. The Board accepts this as a valid point.
65. Also at the reconvened hearing the Board received further information from the business manager concerning the business and the current position with the audits. In summary the business manager stated:
- (a) She is back at work (following a serious operation and a period of time in hospital);
  - (b) She has employed her son to assist with day to day work of the business and to assist in resolving issues relating to the trust records. Her son is not a licensed conveyancer – he is planning to commence the course and has worked as an administrative assistant in a conveyancing office;
  - (c) She has changed software for trust records (from Banklink to MYOB)
  - (d) She has about 20 current conveyancing matters
  - (e) The respondents’ accountant is confident that the issues with the trust records can be resolved.
66. The business manager also:
- (a) Undertook that the three outstanding audits for 2021-2024 would be completed by 30 September 2025 whilst also noting that the audit report for 2024/25 due for completion by 30 September 2025 could not be completed until the other 3 have been completed
  - (b) Agreed, at the suggestion of the Board, that she take on no new clients until the three outstanding audits and the 2024/25 audit were completed
  - (c) Agreed that she would arrange for her accountant provide the explanation of how the trust records will be reviewed to enable the completion of the audits and what systems will be put in place to ensure that future audits will be completed in line with the requirements of the AL Act.

## **Board's findings**

### ***Issue (a) - failure to provide annual audit reports***

67. Lorraine Marsh and Cotswold did not contest the allegation that the audit reports had not been provided. The Board was provided with information about attempts to conduct the audits. The Board considers that this information is mainly of relevance to any penalty that might be applied if it finds that the failure to lodge audits is a breach of the rules of conduct.
68. Where there is a failure to lodge audits there are two main regulatory options. They are to prosecute through the criminal courts or take disciplinary action. The Board has previously decided that, for disciplinary proceedings, it can find that the Act has been breached (in respect of provisions where there is a criminal law penalty) regardless of whether there has been a formal prosecution under the legislation.
69. Based on these matters, the Board finds that Cotswold has breached section 59 of the AL Act by not ensuring that its trust accounts were audited as required by that section. The Board considers that it is authorised under section 69 of the AL Act to take disciplinary action against Cotswold in respect of that breach.

### ***Issue (b) – other grounds***

70. In essence issue (b) deals with actions or omissions from the business manager which may have caused Cotswold to fail to have audits completed in time.
71. The audit reports reveal that the basic problem is that the respondents have failed to maintain trust records as reported by the auditor under section 62(2) of the AL Act.
72. Section 62(2) provides:
- “(2) An auditor shall state in his or her report:
- (a) whether, in the auditor's opinion, the licensed agent had kept the accounting records relating to all trust moneys received and paid by the agent in accordance with this Act; and
  - (b) whether those records were ready, within a reasonable time, for the auditor's examination after the auditor had required their production; and
  - (c) whether the agent had complied with the auditor's other requirements and so complied within a reasonable time; and
  - (d) anything in relation to those records of which the agent or the Board should, in the opinion of the auditor, be informed.
73. Section 62(2) imposes obligations on an auditor. Presumably the auditor, in respect of Cotswold, is saying the agent has failed to kept records as referred to in section 62(2)(a).

This suggests that the actual problem may be a breach of section 55 of the AL Act. That section requires that:

“55 Accounting records

- (1) A licensed agent shall keep such accounting records as disclose particulars of:
  - (a) all trust moneys received from day to day by the agent on behalf of each client for whom he or she acts; and
  - (b) all payments made by the agent from day to day out of the trust moneys so received.
- (2) A licensed agent shall:
  - (a) keep the accounting records referred to in subsection (1):
    - (i) in written or printed form in the English language; or
    - (ii) so as to enable them to be readily accessible and readily convertible into written or printed form in the English language; and
  - (b) cause those records to be kept in such a manner that they can be conveniently and properly audited; and
  - (c) retain those records for a period of not less than 6 years after the date on which the last entry in those records was made.

Maximum penalty:

If the offender is a natural person – 100 penalty units or imprisonment for 12 months.

If the offender is a body corporate – 500 penalty units.”

74. The critical failure may be a failure to comply with section 55(2)(b).
75. For dealing with issue (b) (as identified in paragraph 46) the Board has decided to accept the undertakings and agreements set out in paragraph 66.
76. If these undertakings and agreements are not substantively met the Board is likely to consider further disciplinary action.
77. Additionally, further disciplinary action may be taken if it appears, from the final versions of the audits that there are serious, unexplained failures, regarding the day to day maintenance of trust records. If that is the case it may mean that there has been a breach of section 55. The Board notes that the potential maximum fines (pursuant to a prosecution through the courts) gives rise to a maximum penalty of 500 penalty units for Cotswold.

### ***Responsibility of the business manager***

78. Regulation 18 (as set out above) means that Lorraine Marsh as business manager and/or an employee of Cotswold is subject to the same obligations as Cotswold concerning section 59 of the AL Act noting that section 59 is a provision within Part V of that Act. The Board also considers that branch/business managers are responsible, as a general rule, for the compliance of a licensed agent with the requirements of the Act. Significant noncompliance can be the basis of disciplinary action as referred to in section 67(1)(m) of the AL Act.
79. The Board finds that Lorraine Marsh has failed to comply with section 59 of the AL Act as referred to in regulation 18. This means that she has breached rule of conduct 8.

### **Penalties**

80. The powers of the Board after the inquiry into a licensed agent are outlined in section 69 of the AL Act as follows:

“69. If, at the conclusion of an inquiry conducted under section 68(4), the Board is satisfied that it is authorised to take disciplinary action against a licensed agent, the Board may do one or more the of the following:

- (a) reprimand or caution the agent;
- (b) by written notice, impose a fine not exceeding 50 penalty units on the agent;
- (c) by written notice, suspend the licence of the agent until the expiration of the period, or the fulfilment of a condition, specified in the notice;
- (d) by written notice, revoke the licence of the agent.”

81. All the possible penalties are serious for persons in professions and licensed occupations. They all adversely impact on reputation. The outcomes of this matter, including the penalties, will be published as required by section 84A(1) of the AL Act.
82. At the hearing on 23 July 2025 Lorraine Marsh was asked to make a submission dealing with penalties. She mentioned her serious illness and accepted that she was at fault, but provided no submission on any penalty.
83. As outlined above the business manager is now attempting to come to grips with the issues. However, the Board also notes that it has taken almost two years for the respondents to do something meaningful. The Board has not been provided with the narrative promised at the original hearing. In the absence of any substantive explanation the Board finds that it is difficult to believe the business manager was not aware that the critical problem in finalising the audits was the state of the trust records.

### ***Penalty for Cotswold - audits***

84. The Board considered past penalty decisions for disciplinary matters relating failures to provide audit reports. The main ones of some relevance are as follows:

- (1) 2004 - \$500 after agent failed to have the 2003 audit completed with either the statutory time or that time as extended.
- (2) 2011 – reprimand after there was an 8-month delay in the audit along with various procedural problems revealed by the audit
- (3) 2020 – licence revoked after agent failed to have audit for 2018/2019. Improper dealings with the trust monies
- (4) 2023 – reprimand after late filing of audit report with unreconciled amounts over a four year period
- (5) 2023 – reprimand after prolonged delay in audit reports arising out of inaccurate trust accounting.
- (6) 2025 – fine of \$9000 for business manager and \$3,700 for the Agent company for failing to file 4 successive audit reports and for providing misleading information while dealing with the department in respect of the audits and only making belated efforts to fix the problem.
- (7) 2025 - fine of \$3700 for business manager and \$1850 for the Agent company for failing to file 3 successive audit reports. From this summary, the Board has taken a variety of approaches over the past 20 years.

85. The Board's current view is that a reprimand is not a sufficient penalty for major breaches of the legislation.

86. In determining the penalty, the Board considered:

- a) the 3 year period of the successive breaches,
- b) the ignoring of information provided by the department
- c) the regular provision of inaccurate information about when the audits will be completed
- d) the current efforts of the agent to have the audits completed along with the apparent absence of any irregularities in dealing with trust monies
- e) the good compliance history in the period before 2021/22.
- f) the apparent unwillingness (until very recently) to accept the significance of the problem.
- g) The penalties imposed on other agents earlier in 2025 concerning repeated failures to provide audits (as outlined in paragraph 84(6) and (7)).

- h) the apparent fact that the trust records have been kept in such a way that they cannot easily be audited. The Board considers that compliance with the audit requirements is a key provision in terms of client protection.

88. The Board accepts that there is no evidence at this stage of any missing funds.

89. The Board also notes that in most of the other matters quoted above concerning penalties the agent took action to fix the problem once identified.

90. Under section 69(1)(a) of the AL Act the penalty imposed on Cotswold is that of a penalty of \$3700.

91. Under section 69(3) of the AL Act, the Board directs that:

- a. the fine be paid within 60 days of the date of this decision
- b. Cotswold does not accept any new clients until such time as the four audits for the period 2021/25 are completed to the satisfaction of the Registrar of Land, Business and Conveyancing Agents.

#### ***Penalty for Lorraine Marsh for failure to provide audit reports***

92. The Board has found that, as referred to in section 68(1) of the AL Act, Lorraine Marsh, in her role as business manager and director of Cotswold, has breached the rules of conduct and that it is authorised to take disciplinary action.

93. Under section 69(1)(b) of the AL Act the penalty imposed is that of a fine of \$7400. The reasons are the same as those set out concerning Cotswold with the difference between the two considering the personal responsibility of Lorraine Marsh for the breaches.

94. The Board also directs under section 69(3) of the AL Act that:

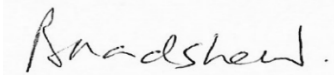
- a. the fine be paid within 60 days of the date of this decision.
- b. the business manager use her best endeavours to ensure that her accountant provide to the Board by 24 September 2025, a written explanation as to how the trust records will be rectified to enable the completion of the audits, and what systems will be put in place to ensure that future audits will be completed in line with the requirements of the AL Act.
- c. the business manager use her best efforts to ensure that all four audits for the period 2021/25 are completed with no qualifications, by 30 September 2025

#### **Right of review**

95. Section 85(3) of the AL Act provides that an affected person can apply to the Northern Territory Civil and Administrative Tribunal for a review of decisions of the Board.

96. For the purposes of section 85(3), “affected persons” include the applicant, agents and agents representatives affected by the decisions.

97. An application for review must be made within 28 days of the day of notification to an affected person of the decision in this matter.

A handwritten signature in black ink that reads "Bradshaw". The signature is written in a cursive style and is enclosed in a light grey rectangular box.

Dated 19 September 2025

Robert Bradshaw

Chairperson (for Agents Licensing Board of the Northern Territory)