

# Journal

DEC 2008  
VOL 59/11

## real ambition

The Waratahs' Ben Mowen  
joins the REINSW side

### A time of opportunity

Making the most of a tough economy

### Novice auctioneers

The talent of the future

### Re-touching photos

Exaggeration or misrepresentation?



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The *Real Estate Journal* is a member only publication from the Real Estate Institute of New South Wales.

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 The *Real Estate Journal* is printed on paper that is totally derived from resources which are managed to ensure their renewability for generations to come.

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# PRESIDENT'S MESSAGE



## What were they thinking?

Sir Winston Churchill once said: "For a nation to try to tax itself into prosperity is like a man standing in a bucket and trying to lift himself up by the handle."

Words that the NSW Government did not take to heart in their recent mini-budget. Premier Nathan Rees and Treasurer Eric Roozendaal went against contemporary economic solutions to the financial crisis by increasing taxes at a time when most other governments around the world are trying to stimulate their local economies.

In order to help prop up their finances going forward, the Rees Government announced a 25% hike to land tax on properties valued at more than \$2.25 million. The land tax grab will capture more people than the Government would have us believe. Landlords will pass on the extra tax cost to tenants, who have already been hit by the economic slowdown.

REINSW condemned the mini-budget as dangerously damaging. We believe it was a missed opportunity by the Rees Government to reinvigorate the stalling NSW economy and will make the state even more unattractive to investors.

The only good news for real estate professionals was an additional \$3,000 grant for first home owners purchasing new dwellings. Including the recently-increased Federal Government grant, first home buyers in NSW can now receive \$24,000 towards the cost of their new property, in addition to stamp duty relief. Established properties continue to attract a \$14,000 Federal Government grant for first home buyers. We believe that these grants will help to stimulate activity in the market, especially at the lower end.

However it does not resolve the problem of the lack of investors in the property market. Myself and REINSW CEO Tim McKibbin have met with Premier Rees as well as NSW Opposition Leader Barry O'Farrell to present a taxation policy paper that provides practical solutions that could be implemented.

Among other suggestions, we propose that the NSW Government should:

- abolish land tax on residential properties that are occupied by tenants as a principal place of residence;
- immediately lower transfer duty rates on residential property to a maximum of 3.5%;
- advocate to the Commonwealth to make transfer duty on property investments tax deductible; and
- provide stamp duty relief for over 65s.

We are also presenting our policies to a number of other senior politicians and bureaucrats, including Federal Opposition Leader Malcolm Turnbull, and will keep you – our members – informed of any developments.

I hope you have a safe holiday season and I look forward to representing you again in 2009.

Steve Martin  
REINSW President

WE BELIEVE  
IT WAS A MISSED  
OPPORTUNITY  
BY THE REES  
GOVERNMENT  
TO REINVIGORATE  
THE STALLING  
NSW ECONOMY.

## IN THE MEDIA

REINSW recently featured on the front page of the daily commuter newspaper mx in Sydney, which has a readership of more than 94,000 people.

"Generation Y home buyers are defying fears of job cuts and recession and entering the property market, lured by the increased first home owner's grant," the article said.

REINSW was quoted as saying that property bargains were still available, despite warnings of a possible recession.

It's just one of the many occasions when REINSW has appeared in the media, with President Steve Martin regularly commenting on talkback radio stations, while CEO Tim McKibbin daily

answers inquiries from newspaper journalists.

Steve also has a weekly column in eight Fairfax Community newspapers.

For copies of recent REINSW press releases, visit [www.reinsw.com.au](http://www.reinsw.com.au) and click on 'News & Advocacy'.







## Sydney's highest webcam

Watch a Sydney skyscraper being built from the comfort of your home.

A CaptivEYE Interactive Webcam has been installed on top of Governor Phillip Tower in Sydney to film progress of the DEXUS Property Group's flagship office at 1 Bligh Street. Viewers can take control of the camera to look at Sydney's skyline or to zoom in on the construction site.

The office tower is designed to achieve a world's best practice 6 star Green Star and 5 star ABGR and is due for completion in mid to late 2011.

## Industrial pipeline scaled back

The economic slowdown is impacting the industrial property sector, with businesses reluctant to pre-commit to new projects.

Nick Crothers, National Industrial Analyst at Jones Lang LaSalle, said industrial property developers were scaling back their work pipelines and shelving plans for new projects as finding tenants and finance becomes more difficult.

"We initially thought this would be a record year for new industrial development and were worried about oversupply," he said. "It turns out supply is not the issue – demand is."

Jones Lang LaSalle's September quarter figures showed the lowest quarterly take-up figure for Sydney in a decade, representing only 31,400sqm of the 368,400sqm of major take-up activity across Australia.

## Disclosing donations

New laws have come into effect to make the process of approvals for development applications more transparent.

Under the new laws, anyone lodging or making submissions on a development proposal will be required to disclose any political donations of \$1,000 or more they have made in the two years preceding the application.



## Changing trends

New technologies, Generation Y, the slowing economy and specialised real estate offices will all help to change the nature of real estate practice in the future, according to a report by the Real Estate Institute of Australia (REIA).

The report, *Real Estate Trends Focus Group 2008*, is the result of a conference in June where 80 real estate professionals from across Australia and New Zealand gathered in Canberra to discuss the future of the industry.

The report examines trends such as the growing number of buyers' agents and tenants' representatives, the importance of sustainability initiatives and the changed thinking of today's consumers and employees.

To download a copy of the report, visit [www.reia.com.au](http://www.reia.com.au) and click on 'What's new'.

## Dodo call register

The telecommunications watchdog has handed out the largest penalty since the Do Not Call Register legislation came into effect in May last year.

Dodo Australia Pty Ltd has paid a penalty of \$147,400 after the Australian Communications and Media Authority (ACMA) alleged that an offshore call centre made telemarketing calls on Dodo's behalf to numbers on the Do Not Call Register.

"The penalties for calling numbers on the Do Not Call Register can be very high," said ACMA Chairman Chris Chapman. "ACMA is committed to enforcing this legislation and will take formal action – which may include imposing substantial penalties – where appropriate."



## Wheelie good idea

Looking for a quirky Christmas gift idea? Or perhaps something interesting to add to your gift packs for successful purchasers?

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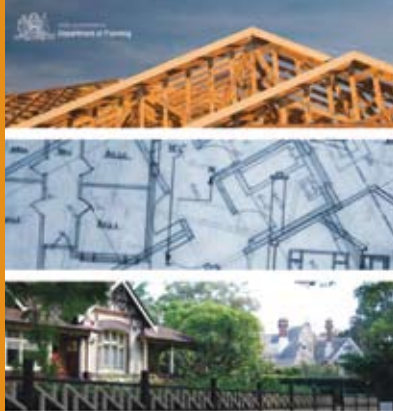
## Asian investors still spending up

Despite the slowing global economy, the top end of the prestige property market remains attractive to wealthy overseas investors, especially from Asia, Knight Frank said in its recent overview of the prestige residential market.

The record for Australia's most expensive property was broken twice in 2008: first by the \$32.4 million price of 'Craig-y-mor' in Point Piper and then more recently with the reported \$47 million sale of 'Coolong' in Vaucluse.

"Quality properties in prestigious locations will continue to be highly sought after," Knight Frank said in its report. "While mainstream residential markets are subject to turbulence in the national economy, prestige residential property is increasingly an international market, with purchasers coming from established and emerging economies ... Wealthy entrepreneurs from China and other Asian economies still seek prestige residential property investments and the relatively limited supply of prestige properties in their home markets ensures they turn their attention overseas."

However 'entry-level' prestige properties in the \$2 million to \$5 million range have suffered a reduction in transaction volumes due to the falling share market, as this end of the market is dependent on corporate profitability and share market profits as a source of purchaser finance.



LOCAL DEVELOPMENT  
PERFORMANCE MONITORING  
**2007-08**

## Slowest DA approvals in Ashfield

If you are waiting for local council approval of a development application, let's hope you're not in Ashfield. The Municipal Council in Sydney's inner west had the slowest mean time for approvals of DAs in NSW in 2007/08, taking 160 days, according to the latest figures from the NSW Department of Planning.

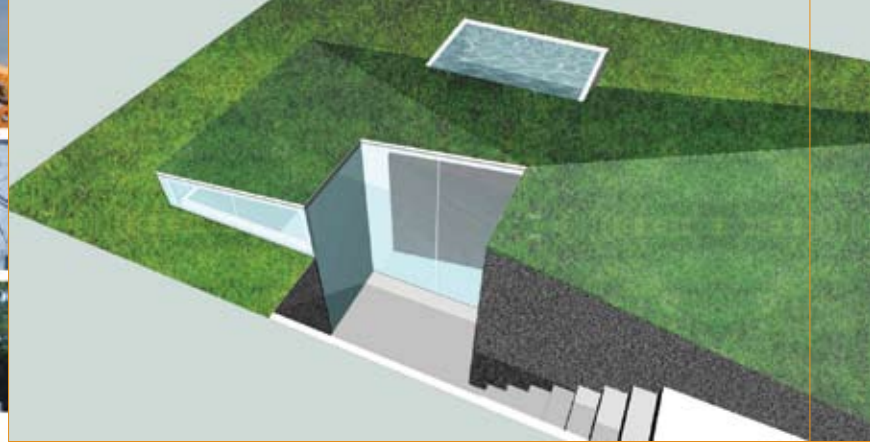
Temora Shire Council, in the NSW Riverina, had the fastest mean time of just seven days.

The average time for DA approvals across all councils was 74 days.

## Retail centres go green

Retail centres can now evaluate their sustainability credentials with the launch of a new rating tool from the Green Building Council of Australia.

The Green Star – Retail Centre v1 rating tool evaluates the environmental merits of a base building and its services on the basis of design potential (tenancy fitouts are not included). The tool can also be used to rate the environmental merits of a retail centre at the post-construction phase (known as 'As Built').



## Six feet under

An architectural firm has suggested converting backyard swimming pools into subterranean granny flats to help address the undersupply of housing.

The concept, by Nobbs Radford Architects, involves emptying the pool and using it to create a small bedroom, living room, kitchen, bathroom and courtyard, with rooftop windows.

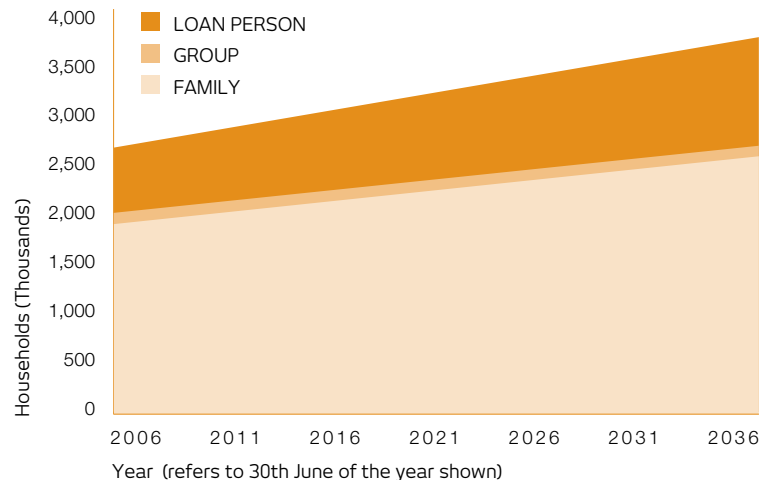
## Growing challenge

The number of people aged 65 and over is expected to double between now and 2036, placing a growing burden on health services, welfare and housing.

The latest demographic data from the NSW Department of Planning shows that by 2036, people aged 65 and over will represent 21.5% of the population, compared with 13.5% in 2006.

The ageing population will also be the main driver in the number of people living alone. The number of lone-person households is expected to increase from 646,500 in 2006 to 1.06 million by 2036.

The total number of households in NSW is projected to increase to 3.72 million by 2036, a rise of 41% on the 2.65 million households in 2006.



PROJECTED NUMBER OF HOUSEHOLDS IN NEW SOUTH WALES, 2006-36



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# A time of opportunity



UNDERLYING DEMAND FOR PROPERTY IS INCREASING, AS THE CONSTRUCTION OF NEW HOUSING REMAINS AT RECORD LOWS

THE PROPERTY SECTOR MAY HOLD UP BETTER THAN MOST IN 2009, BUT IT PAYS TO BE PREPARED FOR SLOWER ECONOMIC CONDITIONS.

While news about the share market and the economy seems to get worse, at least it's not all doom and gloom in the property market.

Our industry has received some encouraging boosts with the increase in the first home owners grant at the same time as interest rates have fallen.

Mortgage Choice's website attracted a 577% leap in enquiry forms completed by first home buyers in the week following the increase of the First Home Owners Grant on 14 October. Whether those inquiries translate into sales is yet to be seen, but we can be sure that quality properties at the lower end of the market will attract more competition.

Unfortunately the interest rate cuts have had a smaller impact, with all four major banks refusing to pass on the cuts in full.

While the market remains tough, it's worth remembering that the underlying conditions point to better times ahead. The simple fact remains that there are not enough properties to meet demand. The number of new homes approved by NSW councils slumped 26 per cent in September to 1,594 – the lowest level in the post World War II era, according

to figures from the Australian Bureau of Statistics.

This is one of the reasons why house prices in Australia are not set for the precipitous falls that have occurred in the United States or the United Kingdom. Reserve Bank deputy governor Ric Battellino recently told a bankruptcy conference in Sydney that the housing bubble in Australia already burst four years ago.

"The shortage of housing here means that there are buyers waiting for better circumstances – for example, lower interest rates or rising incomes – to facilitate their entry to the market," the *Sydney Morning Herald* reported Mr Battellino as saying.

In the commercial property sector, the global credit crunch has hit hard. Australian commercial property sales fell 53% to \$5.6 billion by the end of the third quarter in 2008, compared to the same time the previous year, according to research from CB Richard Ellis. Retail property suffered the most, representing just 18% of turnover in the period, when it is traditionally closer to 30%.

However the market conditions represent a time of opportunity in both residential and commercial.

Savvy investors can pick up some well-located residential properties, knowing that vacancy rates remain low, rents continue to rise and prices have bottomed out in many areas.

In the commercial sector, space in good quality assets is becoming available as some large tenants – especially financial companies – reduce their staff, providing an opportunity for property managers to secure deals with companies that were previously unable to squeeze into the tight office market.

Now is also a great opportunity to review yourself, to prepare for the conditions ahead.

REINSW has a series of checklists that will help you make the most of your marketing, including checklists on:

- brand profiling;
- low cost marketing;
- online marketing;
- networking;
- writing online newsletters;
- effective advertising; and
- copywriting.

To download a checklist, visit the Member Centre at [www.reinsw.com.au](http://www.reinsw.com.au). ♦

## REINSW's top 10 New Year's Resolutions for your real estate agency

1. Review your business operations
2. Review all of your costs
3. Ensure your agency is fully compliant
4. See your accountant or financial advisor
5. Conduct a team planning session
6. Educate your staff
7. Take advantage of the information and advice provided by REINSW, your professional association
8. Network with community groups and your local business chamber
9. Protect your brand and your reputation
10. Stay positive!

# Planning for prosperity

REINSW MEMBERS CAN LOOK FORWARD TO NEW INITIATIVES THAT WILL HELP THEM TO BUILD THEIR BUSINESS AND THRIVE DURING TOUGH TIMES.

The message from the REINSW State Conference was clear: stay positive and stay passionate.

The gathering of key member agents focused on ways to take advantage of the opportunities that are presented by the slowing economy.

"In times like these, there are a lot of fingers being pointed – blaming the government, blaming what's happening over in the United States," said REINSW President Steve Martin.

"Right at this point in time we have a situation where most people are analysing what is in fact a good investment. The best thing that we can do as an Institute is to promote ownership of property and investment in property."

Steve said he was convinced that the current market conditions represent one of the best buying opportunities he has ever seen – a message that he will reinforce through media releases and interviews.

"There is so much negative news out there at the moment," he said.

"The best thing that we can do is to get people passionate about property."

He acknowledged that most agents have been doing it tough due to the reduced turnover in the market. REINSW has also been impacted, with member numbers falling as agencies close or merge, while other revenue has faced difficult conditions as agents cut back on their discretionary spending.

## REALBUSINESSFIRST Good. Better. Best.

### Real Business First

The conference was the launching pad for a new benchmarking tool called Real Business First, which has been developed as part of a joint project between REINSW and Deloitte.

Delegates saw a demonstration of Real Business First, which links to agents' accounting software to compare their business with the accounts of other agencies of similar size across NSW. All the information is confidential and anonymous.

"This is not a survey," Deloitte's Peter Williams told the conference. "It is a business management tool."

Real Business First will enable agents to instantly compare aspects of their business with the average figures from other agencies, while at the same time maintaining the confidentiality of their own numbers. The figures will be updated monthly so that agents can keep track of where they rank compared to the other agents linked to the service.

Agents can also use an interactive screen that shows the impact to their bottom line of adjusting certain key numbers, such as reducing their advertising costs or number of staff.

A similar benchmarking tool was launched among motor traders eight years ago and has been so successful it is now regarded as an essential part of doing business in that industry.

Real Business First is set to launch on 26 February at a monthly fee of just \$49.50 for member agencies (GST incl.)

REINSW DEPUTY PRESIDENT CHRISTIAN PAYNE WITH PRESIDENT STEVE MARTIN



CHRIS FITZPATRICK, LYN KIMBALL AND BOB BERRY



CHRISTINE CLARKE AND KIM HAMILTON RECEIVE A DEMONSTRATION FROM SPLASH DISPLAYS



CARL PETERSEN, MALCOLM GUNNING AND COLIN ROOKE







BEVAN MCLEOD, PETER WILLIAMS AND MIKE ISRAEL FROM DELOITTE

REINSW CEO Tim McKibbin told the conference that he hopes Real Business First will eventually expand to become an online community, so that agencies who are not direct competitors can share information and network with like-minded individuals.

#### Agent accreditation

REINSW also plans to assist agents by launching an accreditation program, which is currently expected to begin in late 2009.

Details of the accreditation scheme are still being finalised, however REINSW will ensure that the standard will be high. Agents will be required to achieve a certain number of Professional Development Points (PDPs) each year with specialised training (50% of this training can come from approved REINSW providers). Agents will also be required to have professional indemnity insurance.

Agents who achieve accreditation will be able to use it in their marketing to promote their high level of expertise and specialisation.

#### Political action

The conference also heard an update of REINSW's lobbying efforts, which have included meetings with Premier Nathan Rees and Opposition Leader Barry O'Farrell.

With the election just over two years away, the next 12 months represent a time of opportunity to meet with key politicians, who will be formulating policies on home ownership and property investment that are likely to be released in the final year before the election.

The conference heard from guest speaker Greg Pearce, NSW Shadow Treasurer, who echoed REINSW's view that the NSW Government's recent mini-budget was a missed opportunity to stimulate the state's economy.

"We really want to push this government to make decisions that encourage confidence

instead of destroying confidence," Mr Pearce said.

He said he wanted to drive debate on political issues and was keen for further discussions with industry groups such as REINSW.

While REINSW continues to work on initiatives such as Real Business First, an accreditation scheme and policy development, conference delegates commented that the real benefits of REINSW membership are the same as they have always been: the expertise and strength that comes from belonging to a professional association.

Steve Martin said that now more than ever agents needed to take advantage of REINSW's training, products and services, which have the highest quality in the industry.

"We need to work together," he said. "As members, we are all ambassadors of the REI."

"As far as value for membership goes, I would hate to be trading without the back-up of the REI." ♦

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# Auction talent



THE PROFESSION OF AUCTIONEERING HAS A BRIGHT FUTURE, JUDGING FROM THE CHARISMA AND ENTHUSIASM OF THE FINALISTS IN THE 2008 NOVICE AUCTIONEERS COMPETITION.

Budding auctioneers have worked up the courage to test their skills as part of the REINSW Novice Auctioneers Competition over recent months.

The annual competition gives agents the chance to give auctioneering a go, without the pressure of having to sell a real property. Yet it's still nerve-racking to conduct an auction in front of up to 200 people! All competitors have little to no previous auctioneering experience. For some, the competition helps them to overcome a fear of public speaking; for others, it's an opportunity to enjoy the buzz of entertaining a crowd.

Competitors also have to follow a set of terms and conditions for auctions,

as well as demonstrate the ability to achieve the highest possible sale price in a professional manner.

Each competitor had to find their own item to auction, with examples including a weekend at a luxury resort, a hang-gliding experience, a visit to the commentary box at a rugby league game, and two boxes of fresh cherries. All proceeds raised are donated to charity.

This year five REINSW Divisions hosted competitions for their areas:

- Central Coast;
- East;
- Orana;
- Parramatta/North West; and
- Illawarra.

Each event required a huge amount of organisation and commitment from the divisional members. Thanks

to the nearly 300 people who participated to make these events such a success!

From these events, a record number of finalists took their auctioneering skills to the next level at the REINSW State Final on 28 November at Rydges World Square in Sydney:

- Marcus Bramham, Raine and Horne Terrigal – Central Coast Division
- Chris Dawson, Holgate First National – East Division
- Kristin Gahan, Gahan Property Services – Parramatta/North West Division
- David Gray, Ray White East – East Division
- Matthew Harvey, First National Real Estate – Inner West Division
- Angus Macleod, DMS Davlan – Riverina Division

- James Pratt, Raine and Horne Dubbo – Orana Division
- Alex Riley, LJ Hooker Pymble – Metro North Division
- Peter Stewart, Ray White City Sales – Illawarra Division

(Some finalists did not have a competition for their REINSW Division and so instead participated in another divisional competition.)

Competitors showed humour and persistence as they auctioned items to raise money for REINSW's charity St Vincent de Paul All were polished performers, creating a hard task for the judges – auctioneers Kate Lumby, Damien Cooley and last year's winner Ben Chaston.

In a close decision, the winner was Angus Macleod, 30, who grew up in the country town of Hay and





currently works at DMS Davlan in Wagga Wagga.

Angus developed his interest in auctions from his father, a stock and station agent. However Angus pursued a different property career, completing a degree in property valuation while working in commercial real estate in Parramatta. He spent 18 months as a valuer with Heron Todd White in Darwin before making the move to Wagga Wagga.

Angus decided to enter the Novice Auctioneers Competition after receiving an email from REINSW promoting the events. As his local division was not hosting an event, he decided to come up to Sydney for the Parramatta/North West Division's competition.

As it turned out, Angus was a natural at working the room and injecting humour into his delivery.

"I enjoy getting a laugh out of the crowd. Once you have got a laugh, you have got the crowd," he said.

In fact, his skills were so polished that he conducted a second impromptu auction at the end of the final, raising an extra \$1,000 for the REINSW charity St Vincent de Paul, taking the night's total to more than \$9,000.

Angus now intends to improve his auctioneering skills. He has already conducted three property auctions but hopes to do more in the near future.

*The Novice Auctioneers Competition will take place again in 2009 and we are looking for more Divisions to get involved. Let us know if you are keen to help organise an event for your local area or if you would be interested in competing by calling REINSW on (02) 9264 2343 or email [info@reinsw.com.au](mailto:info@reinsw.com.au). ♦*



THE JUDGES: KATE LUMBY, DAMIEN COOLEY AND BEN CHASTON

# Spot the difference

AGENTS BEWARE: RE-TOUCH PHOTOS AT YOUR OWN RISK!

THE MAGIC OF NEW DESIGN PROGRAMS MEANS THAT PHOTOS CAN APPEAR BETTER THAN REALITY. BUT WHEN DOES A BIT OF 'PHOTOSHOPPING' TO A PROPERTY IMAGE TURN INTO MISREPRESENTATION?

The photo on the right (courtesy of REINSW member agency Integrity Real Estate in Nowra) has been re-touched for the *Real Estate Journal*.

Can you spot the six differences in the photo?

## Power lines

Agents might be tempted to remove power lines from a property photo if they block the view. If the item in the photo is a permanent feature of the property or its surrounds, making any changes to it could be construed as

misrepresentation. If you really do not want to have power lines in the photo, try to take a good photo rather than 'make' a good photo. 'Brushing' over the power lines could result in legal ramifications for you and your agency if the successful purchasers later discover that the photo of their property does not match the reality.

## View

It might seem obvious that you cannot change the view of a property, and yet REINSW has seen photos used by agents who have done just that. If the successful purchasers believe that you have misrepresented a property and decide to take the matter further, a re-touched photo could be used as evidence against you. You could not only lose your commission, you could also be subject to disciplinary proceedings under the *Property, Stock and Business Agents Act* or prosecution

pursuant to the *NSW Fair Trading Act* and *Trade Practices Act*.

## Extra features

Adding extra features to a property photo such as a fountain would be a clear misrepresentation of the property, if no such fountain was there in reality.

## Roof

Cracked tiles can be smoothed over, dull colours can be brightened – but just because this can be done does not mean that it should be done. 'Fixing' property defects in a photo is a definite 'no', and brighten or add colours at your own peril.

## Garbage bin

What if an ugly garbage bin ruins your property picture? Or perhaps a rusty old car on the street? If these just happened to be there when the photo was taken, and do not affect the reality

of what the property usually looks like, you are unlikely to be misrepresenting the property if you use some 'Photoshopping' to erase them.

## Garden

Would it hurt to spruce up the garden by adding a few extra flowers? Or what about 'greening' a lawn that's in need of watering? Agents should always err on the side of caution. Remember that if it is not what the property actually looks like in reality, you are likely to be misrepresenting the property.

Despite the wonders of photo re-touching programs, the best way to present a property is to take the most attractive photograph that you can in the first place. Make sure the property is clean, tidy and well-furnished, weed the garden, choose a sunny day or make good use of lighting, and – if possible – use a professional photographer. ♦

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 **REINSW**  
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OF NEW SOUTH WALES



Before



After





# How to keep good people



BY ANNETTE FERRARI

DOES YOUR AGENCY ENGAGE YOUR EMPLOYEES WITH SPECIFIC PROGRAMS TO DEVELOP THEIR CAREERS?

The 'war for talent' today is fierce. It can be difficult to place suitable staff – a situation made worse with the looming exit of experienced baby boomers into retirement.

This is further complicated by the mix of generations in the workplace, some of whom spend less time in each job (like Generation Y), placing pressure on an organisation to keep good staff. Prepared to vote with their feet, Generation Y will walk to their next job – perhaps your competitor – if their current workplace doesn't offer the challenges, development and organisational culture that best fits. But let's not be harsh and put all the blame on Gen Y – after all, it was the previous generations who encouraged Gen Ys to think, question, respond and seek challenges.

So what is the solution to retaining staff? A 2003 survey (Saratoga Institute) revealed that 89% of managers believe employees leave for more money, but 88% of employees leave for reasons other than money with the three most important attributes being:

1. the existence of opportunities for advancement;

YOUR AGENCY CAN ONLY BE AN ACCOMPLISHED MARKET LEADER AND A DRIVING FORCE IN THE REAL ESTATE INDUSTRY IF IT HAS A TEAM OF PEOPLE WHO ARE TRULY ENGAGED.

2. training; and  
3. a clear career path.

The message here is clear: employers need to engage their employees with specific programs in development and training. And that's all employees, not just key members, for if you are not trying to retain everybody you currently have, why are you employing them?

Your agency can only be an accomplished market leader and a driving force in the real estate industry if it has a team of people who are truly engaged. Training is an essential element in achieving financial success, therefore agency management must create a positive and progressive learning environment such that agency staff have a thirst for knowledge and embrace a culture of learning in the workplace.

- How engaged are your agency staff compared to your competitors? In this current challenging market, has staff training decreased or increased? Do you view training as a cost or an investment?
- Are you continuously developing your employees by challenging

REBECCA GARROD, JOANNE COUGHLAN AND TONI HEALEY FROM CUNNINGHAMS PROPERTY ATTEND AN INSPIRATIONAL TRAINING DAY AT REINSW'S WOMEN IN REAL ESTATE CONFERENCE



their levels of knowledge and closely monitoring their job performance?

- Have you given your people the skills, tools and know-how to better manage themselves?
- Do your people know where your agency is heading? People like to be on a winning team, one that is going somewhere. Have you communicated your vision, goals and plans to your employees?
- Do people know what is expected of them? How can they succeed if they are not sure what you want? Your staff must have thorough job descriptions with clear, unambiguous performance measures and a program of the tasks required to assist in meeting the target. These tasks should be reviewed regularly to ensure that the employee is on track to meeting their targets, to identify early any training gaps, and to give guidance and additional information to ensure their journey is successful.
- Have all your staff been trained to understand what they can and can't do to comply with legislation? People must understand the guidelines within which they operate and know the policies and procedures which underpin these. This knowledge provides employees with the competence to tackle tasks with confidence.
- Do you provide all the training and development necessary to do the job? From the induction program through to preparing them for their next role, employees want to be given the best chance of success. Have a planned program using existing staff and information to bring new people up to speed quickly. Allow them to grow and develop to take on new challenges by providing information on external training, seminars and conferences. Bring in trained professionals to conduct 'tailor-made' programs specific to your agency needs. Encourage employees to spend time with successful industry practitioners, for example by shadowing a top-flight salesperson for the day.

The above points just skim the surface into the three areas outlined as important retention attributes. Systematically going through the points and working on a process that delivers the right result will bring dividends to your agency.

Good staff are priceless. The cost of losing them is far greater than the cost of fixing the problem.

*Annette Ferrari is a trainer with REINSW Education & Training and a practising licensed agent. She is a sales specialist with a Masters in Behavioural Science. Annette excels in working with agencies to identify the organisational psychology factors that may impede growth. ♦*



# Conversation stoppers



BY DOUG MALOUF

IT'S EASIER TO DEVELOP A NATURAL AND EFFECTIVE CONVERSATIONAL STYLE IF YOU ARE AWARE OF THE THINGS THAT TURN PEOPLE OFF.

Excellent conversational skills will stand you in great stead throughout your life. You will not only win over your customers, you will improve your relationships with everyone around you.

People often run into trouble when trying to converse because they are preoccupied with what the other person thinks of them, instead of trying to relate to what the other person is saying. Remember, people will be more receptive to you and

your ideas if they have had a chance to express themselves first.

Here are some examples of conversation stoppers.

## Not listening

To be a good listener you should push all other distractions aside and focus on what the other person is saying.

## Negative statements

Negative statements such as "people always let me down" and "things never work out for me" put people off. Think positively and speak positively.

## Failure to respond

Failing to respond to what the other person is saying shows them that you don't care. Give feedback to show that you have received and understood their message.

## Interrupting

Never interrupt people while they are talking. It is frustrating for the

person talking and is just plain bad manners.

## Arrogant assertions

No one likes being told what to think or how to think. In a conversation, be prepared to discuss, not make assertions.

## Straying from the point

Don't bore people with long meandering stories. Stick to the point!

## Arguing

No one wins friends or customers by arguing.

## The bearer of gloom

People don't want to hear about your operations, financial problems, illnesses or problematic love life.

## Criticising others.

The saying "if you have nothing nice to say, say nothing at all" hits the nail on the head! If people constantly hear you criticising or complaining

about others, they'll never trust you not to do the same about them.

## Talking about yourself.

Talk about yourself excessively and you are likely to be considered a self-centred bore.

Avoid these conversational "put-offs" to be an effective communicator!

*Doug Malouf is an internationally known speaker and author on sales, management and communication. He has more than 30 years experience as a professional trainer and is the CEO of DTS International.*

*For more practical advice on improving your sales performance, purchase Doug's latest book The Real Estate Sales Survival Kit 3, which is available from the REINSW Sales & Supply Centre. Visit [www.reinsw.com.au](http://www.reinsw.com.au) or call (02) 9264 2343. Alternatively you can contact [doug@dtssydney.com](mailto:doug@dtssydney.com) for more information. ♦*

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# Training for new CAREER GOALS

DARE TO EXCEL IN YOUR REAL ESTATE CAREER,  
WHETHER YOU ARE JUST STARTING OUT OR HAVE  
YEARS OF EXPERIENCE.

*JOURNAL* EDITOR ROSLYN ALDERTON SPOKE TO FIVE  
REINSW MEMBERS WITH THE DETERMINATION TO  
LEARN NEW SKILLS AND PUSH THEMSELVES AHEAD.



BY ROSLYN ALDERTON





**RT**  
9 - 10 PSI



BEN MOWEN

**Ben Mowen  
HSBC Waratahs player**

When he's not on the rugby field or in the gym training for up to six hours a day, Ben Mowen undertakes training of a different kind – a real estate course to obtain his Certificate of Registration.

"I bought a house three years ago – that sparked my interest [in property]," said the 23-year-old flanker and former captain of the Australian U21's side.

"I really enjoyed the searching process, doing the research myself. I have since purchased another property. I want to build on my investment portfolio ... I have a passion for property."

Like many promising young players, Ben is part of the Personal and Career Development Program (PACD) organised by the Australian Rugby Union and the Rugby Union Players' Association (RUPA).

The PACD assists players to undertake education opportunities while they pursue their sporting achievements. This helps the players to make a transition into an alternative career once their rugby union career comes to an end. Research has also shown that players who are undertaking some form of study or work while they are playing actually improve their performance on the field.

"I have played with a few guys whose careers have ended up in property," Ben said. "There's a couple of guys that have gone on to be developers. The great thing about rugby is there's always those connections, but you need to have the study behind you."

Ben is the first player to undertake real estate training with REINSW as part of an agreement with RUPA, with other players set to follow.

He is completing the Course in Property Practice via eLearning and expects to be studying while on tour in Dubai in December.



THE PRINCE OF WALES HOTEL – ONE OF THE ASSETS THAT JOHN MUSCA IS CURRENTLY REPRESENTING

**"I HAVE PLAYED WITH A FEW GUYS WHOSE CAREERS HAVE ENDED UP IN PROPERTY... THE GREAT THING ABOUT RUGBY IS THERE'S ALWAYS THOSE CONNECTIONS, BUT YOU NEED TO HAVE THE STUDY BEHIND YOU."**

"Your books come with your boots nowadays on tours," Ben said.

After obtaining his certificate, Ben expects to complete his Real Estate Licence in the classroom and eventually hopes to work in commercial and industrial property.

In the meantime, he remains focused on his rugby ambition: to represent Australia at the top level.

"I have Super 14 coming up this season," Ben said. "I would like to be involved in the game day 22 and work into the starting side. You train and press for Wallabies selection from there."

**Justin Spencer  
Property officer  
APF Group**

At just 19 years of age, Justin Spencer has already built a solid foundation for his real estate career: working at a diverse property group and completing a Certificate III in Property (Real Estate).

He joined the industry straight after finishing his Higher School Certificate.

"I had a look around at a couple of different careers," Justin said. "I thought it would be interesting to learn the people skills involved, talking and dealing with customers."

He finished a traineeship and was employed by APF Group in Sydney.

"We do everything from finance, accounting, tax returns, commercial property management, residential sales and residential property management," he said. "We have a portfolio of 1,500 properties."

While working as an assistant property manager over the past year, Justin completed his Cert III with REINSW via eLearning.

"I haven't been in the classroom," he said. "It was just through correspondence with the trainer. If had any questions, I would just get onto the phone or email."

He completed most of the study during work hours and twice throughout the year his trainer visited him at his office.

Justin has since been promoted to the position of property officer and hopes to become more involved in property management in the future.

**John Musca  
Senior Vice President, Hotel Sales  
Jones Lang LaSalle, Sydney**

Whenever John Musca walks into a pub, he can't help but start analysing the business: the layout, the décor, the types of services on offer.

"It just comes with the job," he said.

John has specialised in selling hotels in NSW since 1989.

"Increasingly now I'm responsible for larger hotel asset sales and hotel portfolio sales nationally," he said.

The nature of John's specialisation has required extensive training to build up his business skills. His education credits include a Master of Business Administration (MBA). In addition, he completes his Continuing Professional Development training with REINSW every year.

"The average value of a transaction is anywhere between \$20 million and \$30 million," he said. "You are dealing predominantly with valuers, banks and private equity groups. In a lot of circumstances the hotels are very large businesses. I'm interested in the challenge of understanding those businesses and assisting people to understand how they can maximise those businesses."

John also has to understand complex legislation.

"There is very different legislation in each state relating to gaming and operating hours," he said. "It's quite interesting to understand nationally the differences in each market."

While the nature of his work has changed the way he sees hotels, he still enjoys sitting down and having a beer with mates at the pub.





JUSTIN SPENCER



JOHN MUSCA



AMANDA TATE



GLENDAS DOUGLAS

**Amanda Tate  
Principal  
LJ Hooker Taree**

Most people start in real estate as a property manager or sales agent and work their way up from there. Amanda Tate's career began the other way around.

"My first day in real estate was my first day as the owner," she said.

Nearly 13 years ago, Amanda was working in the finance and insurance industry. She was friends with the then owner of LJ Hooker Taree when the business came up for sale. Amanda took up the challenge and bought the office.

"We started with four or five staff. We now have 15," she said.

Four years after running the business on her own, Amanda's husband Chris, a fully licensed builder, joined the office as well. Chris specialises in residential sales while Amanda's focus is on commercial property and residential property management.

"It's not just about collecting rent," she said. "It's about making sure that [the owners] are maximising their tax deductions. You are providing them a service. You are finding new investment properties for them, locking in good tenants."

"I LIKE TO STAY ONE STEP AHEAD OF THE COMPETITION. I HAVE THIS COMPETITIVE SPIRIT. WE ARE CONSTANTLY LOOKING AT WAYS OF IMPROVING."

Amanda has built up her expertise through training and networking, including three years as the head of LJ Hooker's Property Investment Management Chapter. She is also currently on LJ Hooker's Marketing and Investment Board.

She believes that Continuing Professional Development training is critical to improving her business.

"I'm very big on training and on keeping up with the way we do business and marketing," Amanda said. "I like to stay one step ahead of the competition. I have this competitive spirit. We are constantly looking at ways of improving."

"CPD is a good refresher course, too. It's wonderful to go back and refresh different aspects of the law, which we do know but there are things that you don't deal with every day."

**Glenda Douglas  
Hobby Farm and Rural Sales  
Consultant  
Meers & Shelton First National  
Real Estate, Tamworth**

Glenda Douglas is not afraid of a challenge, even if it means becoming one of the first women in her office to obtain her Stock and Station Licence to sell acreage and lifestyle properties.

"In our office this role has been predominantly male," Glenda said. "The challenge was there and I just thought: why not?"

It's an attitude that has pushed her real estate career further and further since she joined the profession four years ago.

"Prior to being in real estate, I had my own business: a seven-day-a-week general store in a little country village," she said. "I sold my business through a good real estate agency. My initial interest [in becoming a real estate agent] was through the lady that I dealt with."

Like many agents, Glenda developed her love for property through buying and selling houses of her own.

"I have moved around a fair bit. In our moves we have usually bought a house, not rented. I always loved looking at the houses; I loved finding something special."

When she started at Meers & Shelton, she completed her Certificate of Registration online via REINSW's eLearning.

"That was excellent. Having nothing to do with real estate before, it was a bit like a foreign language to start with. I got terrific feedback from the trainers and I found it not as daunting – as a mature age student – because I wasn't in a classroom."

She started on the front desk as the receptionist, moved to property management and eventually joined the residential sales team.

Now she is completing another online course with REINSW for her Stock and Station Licence, with some of her prior experience recognised so that she does not have to complete every module.

"As much as the modules are great, nothing beats actually doing the job and being with other experienced agents that can help you along the way," she said.

Her immediate career goal is to specialise in lifestyle farms of five to 20 acres around Tamworth.

"What better job could you get, looking at beautiful houses, meeting interesting people and making a difference to people's lives?" she said. ♦

"IT'S WONDERFUL TO GO BACK AND REFRESH DIFFERENT ASPECTS OF THE LAW, WHICH WE DO KNOW BUT THERE ARE THINGS THAT YOU DON'T DEAL WITH EVERY DAY."



A LIFESTYLE FARM THAT GLENDAS IS REPRESENTING

# Preparing for bushfire season



BY CHIEF SUPERINTENDENT  
STEVEN PEARCE  
NSW FIRE BRIGADE

EMBERS THREATEN YOUR PROPERTY OVER A LONGER PERIOD OF TIME THAN RADIANT HEAT OR DIRECT FLAME CONTACT AND ARE THE CAUSE OF MOST PROPERTY LOSSES.

IF A BUSHFIRE IS HEADING TOWARDS YOUR HOUSE, SHOULD YOU EVACUATE OR STAY TO DEFEND YOUR PROPERTY? HERE IS SOME INFORMATION TO HELP YOU MAKE THIS IMPORTANT DECISION.

There is widespread community belief that bushfires move at the speed of express trains, houses explode into flames and burn down in minutes and not much can be done to prevent it.

Studies of major bushfires in Australia show that homes are more likely to be attacked by embers that lodge in vulnerable parts of the house before and after the passing of the main fire front than be engulfed by raging flames.

It is a fact that small unattended fires caused by embers destroy most homes in bushfires because there is nobody present to put them out.

Research also shows that properly prepared homes are more likely to survive a bushfire if able-bodied people remain with their homes to guard against 'ember attack' and extinguish the small fires. Yet the passing of a fire front is a terrifying experience.

Before deciding whether to stay and defend your property or to leave early, it's important to understand how bushfires behave and what to expect on the day.

Bushfire affects a home in three key ways:

## 1) Ember attack

This occurs approximately 30 minutes prior to the arrival of the fire front and for several hours afterwards.

Burning debris such as sparks and embers are carried by strong winds ahead of the fire front. They can fall on or around the home, igniting small fires where they land. If not extinguished quickly, they can grow into a major fire that has the potential of destroying your house.

Ember danger spots include: roof cavities, complex roof lines, roof gutters, underfloor spaces, wooden decking and steps, windows and door frames, broken windows, door mats, dried out lawns, vegetation, mulch and fire wood stored externally.

## 2) Radiant heat

This arrives with the fire front and lasts approximately 15 minutes.

Radiant heat causes objects on and around your property to rapidly reach ignition point. Once again, it is important to minimise combustible materials in and around your home, including the choice of materials for fences, decks, and roof; the choice of vegetation species and mulches; and the storage of chemicals, wood and compost piles.



Radiant heat can cause heat exhaustion and death to humans exposed to it, so cover exposed skin with long tops and pants of natural fibres. Wear solid shoes, hats, goggles and face masks. Take refuge behind a solid barrier, such as the brick or concrete walls of a house, until the fire front passes.

## 3) Direct flame contact

This also arrives with the main fire front and lasts for approximately 15 minutes.

In residential areas adjacent to bushland, houses on level ground with a fuel-free area 30 metres wide (such as mowed green lawn or a paved area) between the house and the bush are less likely to be affected by direct flame contact.

Houses located upslope of burning bush are more likely to come into contact with flames moving through the canopy.

Be aware that wooden fences or foliage running alongside the house can act as a 'wick' inviting flames to travel towards the house.

## Plan to survive

Most people who die in bushfires die as a result of last-minute, unplanned evacuations.

For those who live in bushfire prone areas, bushfires are inevitable but they are also survivable.

Survival depends on planning and preparing well in advance.





You should consider the following when preparing a comprehensive Bushfire Survival Plan:

- Your level of bushfire knowledge.
- Will you go or stay?
- What direction is the fire likely to approach your property from?
- Is your property sited in a risky location?
- Has your house been designed and built with the risk of bushfires in mind?
- Has your property been landscaped in a way that minimises the bushfire risk?
- What do you need to do to prepare yourself and your property?
- How will you receive warning of the approaching fire?
- How will you receive information during the fire?
- What will you do if you or other members of your household are away from home when the bushfire threatens?

Once you have answers to these questions, you can devise a plan suited to the needs of you and your family.

Make sure everyone in your household knows the plan.

Discuss your plan with neighbours.

**Remember:**

- Embers threaten your property over a longer period of time than radiant heat or direct flame

contact and are the cause of most property losses.

- Patrol the boundary of your home regularly to guard against ember attack.
- If you decide to stay with your home, you need to be able-bodied, dressed for protection and confident that your home has been properly prepared.
- Take refuge from radiant heat and direct flame contact during the passing of the fire front.
- Protect firefighting equipment from the passing fire front.
- Once the fire front has passed, go outside to check for embers.
- During a bushfire, power, water, phones or emergency services may not be available so your plan should take this into account.
- Use the weather and news reports as cues to activate your bushfire survival plan.
- Make sure everyone in your household understands what they have to do.

*Chief Superintendent Steven Pearce is Assistant Director Community and Corporate Risk with the NSW Fire Brigade. He regularly attends REINSW forums to assist members with fire safety.*

*For more information, visit the NSW Fire Brigades website [www.fire.nsw.gov.au](http://www.fire.nsw.gov.au) or your local Fire Station. ♦*

## Can you help to provide a water supply during a bushfire?

The Static Water Supply (SWS) Program is an initiative undertaken by the New South Wales Fire Brigades to address significant problems associated with bushland urban interface firefighting.

The program's two major objectives are to find solutions to the problems of inadequate water supplies available to fight major interface fires and insufficient public awareness about how to react to the threat of bushfires.

The NSW Fire Brigades Static Water Supply program locates and identifies static water supplies such as swimming pools in high risk

bushfire areas where reticulated water supplies may need to be supplemented.

It is a community-based program that provides opportunities for improving communication between local firefighters and residents while giving recognition to the contribution residents can make to fire protection for themselves and their neighbours.

Historically firefighters have been hampered in their duties by the inability of the town water main system to supply the volume of water needed to control a major interface fire. This is especially the case in areas of ridgeline

development where topography assists the acceleration and severity of fires. It is also a problem in areas where water service infrastructure is inadequate for providing sufficient firefighting resources to suppress a major fire.

Water service infrastructure problems arise in suburban residential areas. Depending on the severity of the fire, firefighters stretched across a wide defensive front face difficulty when too many firefighting appliances draw water from a single main. This problem is exacerbated by residents also drawing water from the same water main for protection of their own homes.

The SWS Program formally recognises the billions of litres of water stored in suburban backyard swimming pools and other static water supplies, such as water tanks, as a strategic weapon against the impact of a bushfire. The program also physically identifies their location with a purpose-built identification plate and includes the mapping of the resource in bushfire management strategic planning.

*If you would like to register your property's water supply or alert your landlords to the SWS Program, contact your local Fire Station or a NSW Fire Brigade Community Safety Coordinator on (02) 9742 7400.*

# LOCAL HEROES: Day of difference



REINSW MEMBER AGENT WAYNE BLACKLEY MADE A DAY OF DIFFERENCE TO THE DELEZIO FAMILY BY PROVIDING FREE SERVICES FOR THE SALE OF THEIR HOME.

When Wayne Blackley heard that the Delezio family were building a new purpose-built home for their special little girl Sophie, he realised there was a way he could help them.

## WAYNE SAW THE SALE OF THE FAMILY'S SEAFORTH HOUSE AS A PRACTICAL WAY THAT HE COULD PROVIDE FURTHER ASSISTANCE.

"I offered our company's services to sell their property at no charge," said Wayne, Principal of Blackley's Estate Agents at Balgowlah North.

Like many other people, Wayne had been touched by the courage

of the Delezio family after Sophie was seriously injured in two separate accidents on Sydney's Northern Beaches. Wayne saw the sale of the family's Seaforth house as a practical way that he could provide further assistance.

Not only did Wayne forego commission, he also organised a number of other free services, including:

- \$8,000 of advertising from the *Manly Daily* newspaper;
- \$8,000 of advertising from the *Sydney Morning Herald's Domain* property liftout;
- priority placement on domain.com.au and realestate.com.au;
- design of signboards, brochures and DL cards;
- copywriting;
- full furnishing and styling of the house;
- professional photography;
- floor plans;
- a building inspection;
- conveyancing; and
- auctioneering.



WAYNE BLACKLEY WITH THE DELEZIO FAMILY: SOPHIE, CAROLYN, MITCHELL AND RON

A local café donated dinner and breakfast to the successful purchaser.

"It probably took some six months behind the scenes before the eight-week auction campaign," Wayne said. "If you paid for everything, it would probably cost close to \$50,000 or \$60,000."

The house was four bedrooms, with a double garage, a sandstone wall facing onto the street, and a large entertaining terrace that was part of a makeover by Backyard Blitz four years ago. The house sold for a street record on 10 October.

Ron Delezio said he was impressed by Wayne's professionalism.

"One of the things that I really noticed with Wayne was how much of the advice he was giving to us was really good advice," Ron said.

"My wife Carolyn used to be a real estate agent. We have known a lot of real estate agents with our friends and dealings. Wayne was very refreshing in his advice: whether to accept an offer, how we should set the home up, things we should do to the home before we sell. It was absolutely fantastic."

"WAYNE SAID HE DIDN'T WANT TO ATTRACT ANY PUBLICITY ABOUT [PROVIDING HIS SERVICES FOR FREE], BUT WE WOULD BE HAPPY TO SAY THAT HE HAS DONE US A FAVOUR."

Ron said Wayne had already been an active supporter of Day of Difference, the foundation established by Ron and Carolyn to work for critically injured kids in our hospital system.

"Right from the start, Wayne said he didn't want to attract any publicity about [providing his services for free], but we would be happy to say that he has done us a favour," Ron said.

To find out more about Day of Difference or to make a donation, visit [www.dayofdifference.org.au](http://www.dayofdifference.org.au) or call (02) 8920 9000. ♦



# Training news

For more information or to book a course, call (02) 9211 8707, email [training@reinsw.com.au](mailto:training@reinsw.com.au) or visit [www.reinsw.com.au](http://www.reinsw.com.au).



ONE QUESTION THAT MUST BE ASKED OF THE BARGAIN HUNTERS IS HOW MUCH HAS YOUR BARGAIN REALLY COST YOU?

WHEN IT COMES TO TRAINING, THE ANSWER IS THAT IT COULD COST YOU YOUR BUSINESS.

## Quality versus cost

BY JAMIE HAMMOND

THE REAL COST OF CUT-PRICE TRAINING IS THAT YOU RISK LEARNING INCORRECT INFORMATION.

"You get what you pay for."

At some time or another we have all stood proudly behind this statement, usually when we are asked to justify our fee, or explain why we feel our product is of a superior quality.

The reason we use this statement is that, when most people are given a choice between either cheap and nasty or quality at a reasonable price, the decision is simple: quality usually wins out.

Unfortunately that is not always the case – sometimes the perception of a bargain can be enticing. One question that must be asked of the bargain hunters is how much has your bargain really cost you?

When it comes to training, the answer is that it could cost you your business.

I firmly believe that the value for money provided by REINSW's

training is second to none. And that is backed up by our students: 97% say they would use our training next time.

We recently received a call from an agent who had completed a 'fast track' licensing course with one of our competitors. The agent asked to be enrolled into one of our licensing courses. He did his five day course and now holds the license, so why would he want to do the course again? He explained that he didn't actually learn anything in the other course and as he had no experience, he wanted to learn what he should actually be doing.

Are the other courses really cheaper?

Even looking at this from a financial perspective, let's compare the REINSW licensing course at \$3,370 and one of our competitors at \$2,250. Based on the daily rate you would be paying \$450 with the other training provider versus \$120 a day with us.

What about continuing professional development (CPD)? I often hear the remark: "I am only doing CPD

because I have to and I don't really care about the quality." Or "I will look for the cheapest CPD training I can find just as long as I get my points."

Will that \$99 CPD course give you an edge over your competitors that are doing their training with REINSW? Our students are getting the best facilitators in the industry from the industry's premier professional association. How much will that \$99 course cost you if you lose your next listing to a competitor because of something they learned in the CPD skills course they did with REINSW?

Or what if you get the incorrect compliance information and inadvertently do the wrong thing – do you think the training provider will be there to defend you when the Office of Fair Trading comes knocking on your door?

Next time you are hear about cut-price training, it's worth considering what it could really cost you.

## New course in 2009

### Recession proof business strategies

THE GLOBAL ECONOMIC SLOWDOWN DOES NOT HAVE TO SPELL DOOM AND GLOOM FOR YOUR BUSINESS. WILL YOU BE ABLE TO IDENTIFY AND TAKE ADVANTAGE OF THE OPPORTUNITIES BEFORE YOUR COMPETITORS DO?

In this workshop you will learn how to:

- identify the hidden opportunities in tougher times;
- increase your success through the use of a targeted strategy;
- build your profile to become an agent of choice ; and
- establish and capitalise on your points of difference.

**Learning category:** 3

**Duration:** 4 hours

**CPD points :**12

**Broad learning area:** Business Practices

# Training Calendar

JANUARY/FEBRUARY 2009

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	WEEKEND
<p>■ CPD Workshops (Sydney metro) \$199/\$245</p> <p>■ CPD Workshops (Regional) \$199/\$245</p> <p>■ Course in Property Practice start dates (full and part time as noted) \$510/\$645</p> <p>■ Experienced Agents Licensing Course (available in business \$999/\$1499, real estate \$1499/\$1999 and stock &amp; station \$2499/\$2999 categories)</p> <p>■ Licensing Course (Real Estate) full time \$3370/\$4225</p> <p>Prices are indicated as member/non-member and GST inclusive</p>		7	JAN 8	9	10/11
			<p><b>SYDNEY</b> Recession Proof Business Strategies</p>		
19	20	21	22	23	24/25
<p><b>SYDNEY</b> Licensing Course (Real Estate) F/T</p>	<p><b>SYDNEY</b> Recession Proof Business Strategies</p>	<p><b>NEWCASTLE</b> Recession Proof Business Strategies</p>	<p><b>SYDNEY</b> Under performing staff &amp; Recession Proof Business</p>	<p><b>SYDNEY</b> Experienced Agents Licensing Course</p>	
<p><b>SYDNEY</b> Course in Property Practice F/T (starts)</p>	<p><b>WOLLONGONG</b> Recession Proof Business Strategies</p>	<p><b>NEWCASTLE</b> Experienced Agents Licensing Course</p>	<p><b>TAREE</b> Recession Proof Business Strategies</p>		
	<p><b>WOLLONGONG</b> Experienced Agents Licensing Course</p>		<p><b>TAREE</b> Experienced Agents Licensing Course</p>		
2	3	4	5	6	7/8
<p><b>SYDNEY</b> Course in Property Practice F/T (starts)</p>	<p><b>SYDNEY</b> Contracts</p>	<p><b>SYDNEY</b> Talent Management - Knowing how to retain key personnel</p>	<p><b>SYDNEY</b> Recession Proof Business Strategies</p>		<p><b>SYDNEY</b> Course in Property Practice P/T (starts)</p>
	<p><b>CANBERRA</b> Recession Proof Business Strategies</p>	<p><b>ALBURY</b> Recession Proof Business Strategies</p>			
		<p><b>ALBURY</b> Experienced Agents Licensing Course</p>			
16	17	18	19	20	21/22
<p><b>SYDNEY</b> Course in Property Practice F/T (starts)</p>	<p><b>SYDNEY</b> Recession Proof Business Strategies</p>	<p><b>SYDNEY</b> Professional Receptionist</p>		<p><b>SYDNEY</b> Experienced Agents Licensing Course</p>	

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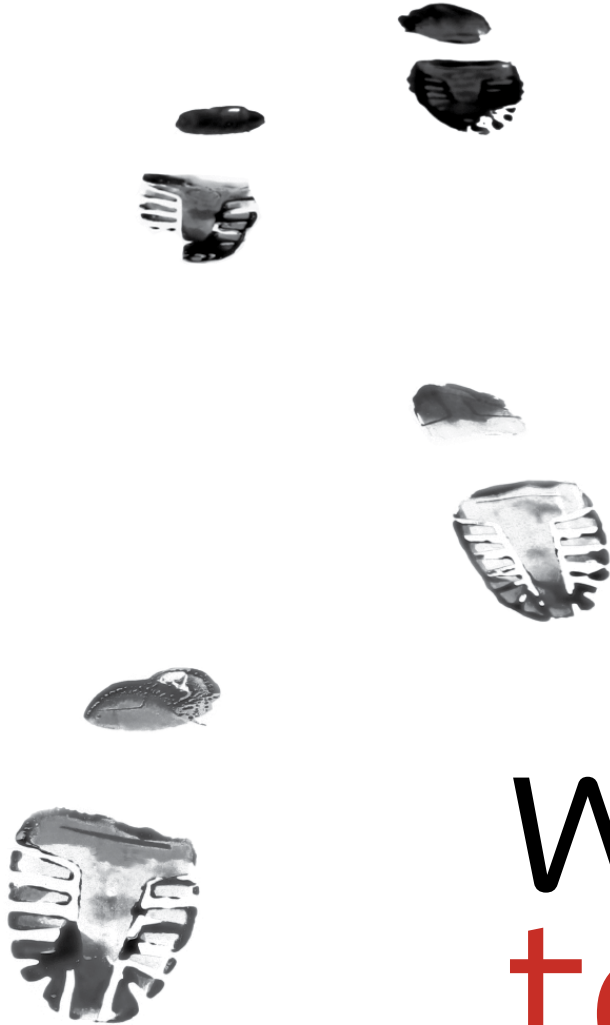
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MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	WEEKEND
12	13	14	15	16	17/18
<b>SYDNEY</b> Course in Property Practice F/T (starts)	<b>SYDNEY</b> Recession Proof Business Strategies		<b>SYDNEY</b> Profile Building		
26	27	28	29	30	31/FEB 1
	<b>SYDNEY</b> Recession Proof Business Strategies	<b>TAMWORTH</b> Recession Proof Business Strategies	<b>SYDNEY</b> Setting up your agency		
	<b>ARMIDALE</b> Recession Proof Business Strategies	<b>TAMWORTH</b> Experienced Agents Licensing Course			
	<b>ARMIDALE</b> Experienced Agents Licensing Course				
9	10	11	12	13	14/15
<b>SYDNEY</b> The Keys to Successful Property Management (5 Days)	<b>SYDNEY</b> Recession Proof Business Strategies	<b>NOWRA</b> Protect your Business Roadshow	<b>CRONULLA</b> Protect your Business Roadshow		
<b>SYDNEY</b> Course in Property Practice F/T (starts)	<b>BATEMANS BAY</b> Protect your Business Roadshow		<b>GOSFORD</b> Recession Proof Business Strategies		
<b>BEGA</b> Protect your Business Roadshow			<b>GOSFORD</b> Experienced Agents Licensing Course		
23	24	25	26	<p>All CPD workshops are delivered under the broad learning categories outlined in the Commissioners Guidelines for CPD and will entitle the user to 12 points.</p> <ul style="list-style-type: none"> <li>• 4 hour workshops are delivered under Learning Category 3 with assessment</li> <li>• 6 hour workshops are delivered under Learning Category 2</li> </ul>	
<b>SYDNEY</b> Maintain Trust Account	<b>SYDNEY</b> Recession Proof Business Strategies	<b>COFFS HARBOUR</b> Recession Proof Business Strategies	<b>SYDNEY</b> Protect Your Fee		
<b>SYDNEY</b> Commercial Industrial Real Estate for Residential Agents	<b>GRAFTON</b> Recession Proof Business Strategies	<b>COFFS HARBOUR</b> Experienced Agents Licensing Course	<b>PORT MACQUARIE</b> Recession Proof Business Strategies		
<b>SYDNEY</b> Course in Property Practice F/T (starts)	<b>GRAFTON</b> Experienced Agents Licensing Course		<b>PORT MACQUARIE</b> Experienced Agents Licensing Course		



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DAVID PENTECOST

## Complying without conforming

DAVID PENTECOST'S CAREER IN REAL ESTATE HAS TAKEN AN UNUSUAL PATH INCLUDING PROPERTY MANAGEMENT, AN AUSTRALIAN DIPLOMATIC POSTING AND WORK WITH THE SALVATION ARMY. ALONG THE WAY, HE HAS LEARNED THE IMPORTANCE OF MAKING SURE YOUR BUSINESS IS ALWAYS COMPLIANT.

When he was working in a real estate office, David tried to quit his membership of REINSW. The membership manager told him over the phone, "If you think you can do a better job, why don't you come work for us?" So he did.

For the past four years, David has worked hard at improving the real estate profession through his role at REINSW. He assists members by taking calls on the helpline and visits offices across the state to help member agencies with compliance. His work has taken him to more than 300 offices so far!

"In my career, the biggest challenge was that I had no one to teach me," he said. "I had to learn it myself. I was creating new processes and systems, with no one to mentor me through it.

"That's what I'm trying to teach others now: to put systems and processes in place. If you follow them, you will be able to mentor your own staff to take them in a positive direction."

David's real estate career has spanned a number of unusual and highly specialised roles.

"Real estate does not necessarily mean working at the local agency on the corner," David said.

### Office management

After studying commercial law at the University of Wollongong, David started in property management at a local real estate agency.

"The natural progression in those days was to go from property management to sales," he said. "I never had any particular interest in the sales side of real estate, other than auctions. From the day I went to my first auction, I said 'that's what I'm going to do'. It looked like fun. I liked the theatrics, not the deal-making. But at 21 I didn't have the credibility to be an auctioneer."

So he took up a position as an office manager as his boss expanded the agency into four offices. "It gave me the opportunity to be in the real estate industry in a very different capacity," David said.

### Diplomatic posting

In 1990 David was offered another job in real estate – this one overseas.

"I worked for the Australian Embassy in Vienna," he said. "For four years I was responsible for the international relocation of diplomatic staff in and out of Vienna. It was the second-largest embassy Australia had in the world. Out of the 250 staff, every week someone was coming and someone was going."

It was a steep learning curve. "I studied German at the University of Vienna," David said. "It was called 'German for foreigners' – so I could operate in a bi-lingual environment. It was also a very security-sensitive environment."

### Salvation Army

Upon returning to Australia, he took up another unusual real estate position, working with the Salvation Army to relocate staff and to manage their property portfolio.

"It was interesting because of the variety of buildings involved," he said. "One day you would be selling a nursing home, the next day you would be building a hostel for homeless kids, the next day you would be discussing a development to provide for shelter for victims of domestic violence."

### Private sector roles

He has since worked in other real estate offices and private sector property trusts, while continuing to auction on weekends – a job he loves so much that he describes it as a "hobby".

He has also worked for a hospital trust that looked after property developments such as day surgeries and nursing homes. This was where David really honed his skills at complying with complicated legislation.

"Compliance and accreditation was hugely important," he said. "Accreditation is how hospitals get rewarded. The better the accreditation, the more government funding."

The sector is covered by a multitude of laws, such as the *Private Health Facilities Act*, the *Mental Health Act* and the *Private Hospitals and Day Procedures Act*.

Studying these Acts became a good training ground for David when the

"From the day I went to my first auction, I said 'that's what I'm going to do'. It looked like fun."

*Property, Stock and Business Agents Act* became law in 2002.

"Compliance forms the foundation of a solid business," he said. "If you get it wrong, the fines and penalties are horrendous."

He said that most agents do not deliberately set out to do the wrong thing.

"Ignorance is the biggest problem in the real estate industry," he said. "Most agents are good, honest, hard-working people. They just don't know what they need to do to comply."

"Some people embrace compliance and see it as a way to set themselves apart from everybody else. Some see it as insurance against worry. Others are happy to be ignorant – you just can't help some people."

David is passionate about the REINSW's Compliance Review Service, which he sees as more than just helping agents to follow the rules.

"It's about helping agents to be the best they can be, to remove from them the worries about whether or not they are doing the right thing, so they run their business and make a quid."

To find out more about the REINSW Compliance Review Service, email [compliance@reinsw.com.au](mailto:compliance@reinsw.com.au), call (02) 9264 2343 or visit [www.reinsw.com.au](http://www.reinsw.com.au). ♦

# REINSW women in real estate real inspiration

FABULOUS, FOCUSED AND FEARLESS WOMEN DISCOVERED THE KEYS TO SUCCEEDING IN BUSINESS AT REINSW'S RECENT WOMEN IN REAL ESTATE CONFERENCE.

More than 130 real estate professionals met at Dockside in Sydney's Cockle Bay for a day of networking and inspiration.

Attendees heard the secrets of success from dynamic business women, learned practical tips for reviewing their agency's finances, and received thoughtful advice on looking after their health and well-being. And everyone was sure to remember the session on business etiquette, which took a humorous and modern approach on how to create a sensational first impression.

*REINSW is planning more forums for women in real estate in 2009, so if you missed out this time, make sure you book for the next event!*

ATTENDEES LISTEN ATTENTIVELY TO THE SPEAKERS.



ETIQUETTE EXPERT ANNA MUSSON DEMONSTRATES HOW TO MAKE A GREAT FIRST IMPRESSION.



DR ANDREW ROCHFORD FROM THE NINE NETWORK'S WHAT'S GOOD FOR YOU PROVIDED SOME TIPS ON LOOKING AFTER YOUR HEALTH DURING STRESSED OUT TIMES.



KATE LUMBY, JACQUELINE DWYER AND LISA SHIRIAN HOSTED A PANEL DISCUSSION ABOUT WOMEN IN BUSINESS.







AUCTIONEER KATE LUMBY ENCOURAGED WOMEN TO MAKE A DIFFERENCE IN THEIR INDUSTRY.



BELINDA SULLIVAN SHARED THE PASSION BEHIND HER DECISION TO LEAVE HER JOB AS A POLICE DETECTIVE TO PURSUE A BUSINESS CAREER WITH CHARITY ORGANISATIONS.



D'LEANNE LEWIS EXPLAINED THE IMPORTANCE OF HAVING A BUSINESS COACH AND MENTOR.



FABULOUS, FOCUSED AND FEARLESS WOMEN ENJOYED A DAY OF REAL INSPIRATION!

REINSW WOULD LIKE TO THANK THE SPONSORS OF THIS EVENT:



# Chapter news

Chapter membership is complimentary for individual members.  
To find out more or to join a Chapter, call (02) 9264 2343  
or email [membership@reinsw.com.au](mailto:membership@reinsw.com.au)

## CHAPTER

### CHAIRPEOPLE

Auctioneers: Kate Lumby  
Business Agents: Position vacant  
Buyers Agents: Lisa Bradley  
Commercial: Joshua Charles  
Holiday and Short Term Rentals: Justin Butterworth  
Strata Management: Gary Adamson  
Property Management: Lyn Kimball  
Residential Sales: Kathryn Hall  
Rural: Phil Rourke  
Valuers: Colin Rooke  
Young Agents: Dave Skow

## DIVISIONAL

### CHAIRPEOPLE

Albury: Brian Phegan  
Central Coast: Andrew McDonald  
Central West: Vacant  
City of Sydney: Vacant  
Coffs Harbour: John Sercombe  
East: Vacant  
Illawarra: Leigh Stewart  
Inner West: Kyp Kosmatos  
Mid North Coast: Steven Newman  
Murrumbidgee: Vacant  
Nepean, Hawkesbury, Blue Mountains: Greg Taylor  
Newcastle and Hunter: Belinda Flekenstein  
New England: Robert Gilbert  
North: Vacant  
Northern Beaches: Richard Jobson  
North West: Gaye Wheatly  
Northern Rivers: Carl Petersen  
Orana: Rod Crowfoot  
Parramatta & Hills: Kate Lumby  
Riverina & South West Slopes: Vacant  
South Coast: Vacant  
South East: Vacant  
South West: Gary Armishaw  
St George Sutherland Shire: Sue Kenaly

## BUYERS' AGENTS:

### Forum for discussion

BUYERS' AGENTS RECENTLY DISCUSSED PRACTICAL ISSUES THAT AFFECT THEIR PROFESSION, AT A FORUM HOSTED BY REINSW.

Guest speaker, David Pentecost from the REINSW Agency Services team, helped agents understand what information must be included in a Buyers' Agency agreement to ensure payment of their fee.

David also discussed the material fact disclosure obligations that affect buyers' agents, as well as the importance of having a compliant office.

Following the presentation, agents shared their views about the current state of the property market, and looked at how to recover fees after the termination of an agreement by a purchaser.

*Buyers' agents will hold more forums in 2009. Visit [www.reinsw.com.au](http://www.reinsw.com.au) to stay up to date with all the latest news and events.*

## YOUNG AGENTS:

### Planning ahead

YOUNG AGENTS ARE ALREADY MAKING PLANS FOR EVENTS IN 2009!

The committee wants to hold one Open for Inspection Forum in a metropolitan area and one in a regional area in each six month period, together with at least one social function.

Plans are in place for forums in Parramatta and Wagga Wagga in the first half of 2009.

Stay in touch with all the latest Young Agents news! If you belong to Facebook, are under the age of 35 or have less than three years' experience as a real estate agent, make sure you join the REINSW Young Agents group on Facebook.

*REINSW members can join the Young Agents Chapter for free! To find out more, email [membership@reinsw.com.au](mailto:membership@reinsw.com.au), visit [www.reinsw.com.au](http://www.reinsw.com.au) or join the REINSW Young Agents Facebook group.*

## AUCTIONEERS:

### Raising the standard

Auctioneer accreditation has proven to be a tricky issue for the REINSW Auctioneers Chapter Committee. The committee believes that unskilled yet qualified auctioneers have, in some cases, decreased the standard of auctions. Having some form of auctioneer accreditation would help to set higher standards for auctioneers.

The process of implementing such a scheme is complicated. Does the licensing requirement need to change? If this is the

case, the decision must come from the NSW Office of Fair Trading.

Could there be different tiers for auctioneers as part of a rating system? If so, how would the model be developed?

The committee and REINSW are still examining the options, but all agree that auctioneers would need to demonstrate a high standard of professionalism in order to obtain any form of accreditation or rating.

## Join a Chapter in 2009

DID YOU KNOW THAT YOU COULD JOIN AN REINSW CHAPTER FOR FREE?

REINSW Chapters provide a forum for networking, sharing common interests, exchanging ideas and opinions, and developing new policies.

Belonging to a Chapter gives you access to specific industry-related knowledge, support and business development opportunities.

Each Chapter has a representative committee that monitors matters affecting Chapter members and makes recommendations on professional standards.

Make it your New Year's Resolution to join a Chapter and get involved in the future of your profession.

*To find out more, call (02) 9264 2343, email [membership@reinsw.com.au](mailto:membership@reinsw.com.au) or visit the Member Centre at [www.reinsw.com.au](http://www.reinsw.com.au).*

## PROPERTY MANAGEMENT:

### Water waste

Two representatives from Sydney Water Corporation attended a recent committee meeting to discuss ways of encouraging tenants to conserve water.

Wes Douglas and Amanda Young had encountered a similar challenge to property managers: that many tenants have an attitude that if they are not paying the bill, they do not care about wasted water.

Both the committee and the Sydney Water representatives agreed that a consumer invoice and pay system would provide a better outcome for all concerned. Sydney Water has proposed that a user pays system may come into effect during 2009 to 2010.



## PROPERTY MANAGEMENT: The lighter side

PROPERTY MANAGERS NEED A GOOD SENSE OF HUMOUR TO DEAL WITH SOME OF THE MORE DIFFICULT SITUATIONS THEY FACE. HERE ARE SOME OF THE FUNNY MOMENTS COLLECTED BY MEMBERS OF THE REINSW PROPERTY MANAGEMENT CHAPTER COMMITTEE.

- Voice message left: "Hi, it's Joe Smith from 1 Ordinary Street, I'm just letting you know that the griller door has gone flaccid again and won't stay up."
- A landlord returned to his house after a five-year absence and asked "Where's my cat?" I asked where did you leave it? Answer: "At the house five years ago, but I left its bowls out."
- Tenants complained of an exceptionally high electricity bill of \$900. An electrician was

A LANDLORD RETURNED TO HIS HOUSE AFTER A FIVE-YEAR ABSENCE AND ASKED "WHERE'S MY CAT?" I ASKED WHERE DID YOU LEAVE IT? ANSWER: "AT THE HOUSE FIVE YEARS AGO, BUT I LEFT ITS BOWLS OUT."

sent to property and it was discovered that the tenants were using the fan forced oven to heat the kitchen and family room!

- Repair request from tenant: Our deadlock seems to be sticking, please fix.  
Our reply: In relation to the deadlock, can you please try using WD40 and advise us if this makes a difference, otherwise we will have our handyman attend.  
Tenant's reply: We tried all keys – it is very hard for all of them. I could not find a key marked as WD40.
- Tenants returned their copy of the condition report. Under section showing the main bedroom, their comments: "Ghost x 3."
- A male tenant was living by himself in a top floor unit. He was cooking breakfast one morning when there was a scratching, shuffling, screeching noise from above and then a cat fell out the exhaust fan and landed in his frying pan. Yes,

a live cat! It had been in the ceiling cavity. Luckily the fan was not on at the time. The cat and the tenant were stunned for a second, and then the cat went on a mad scurry through the unit until an exit was made by the recovering tenant.

- A tenant called to say that 'pebbles' had come off his wall. He meant that tiles had come off the wall in the bathroom.
- Another tenant said the 'stove chimney' was causing a problem – he was referring to the exhaust fan.
- And finally ... a tenant apologised for causing an 'incontinence' when it should have been inconvenience.

*Thanks to Sandy Hodgkins, from the REINSW Property Management Chapter Committee, Lyn Kimball and Lyn Tamsett for the above stories. ♦*

# DON'T RISK IT! PROTECT YOURSELF AND YOUR COMMISSION

## REINSW COMPLIANCE REVIEW SERVICE

The REINSW Compliance Service is a personal, in-office program, designed to give you independent and practical advice to help minimise your risks. A highly experienced REINSW advisor will work with you and your staff to ensure you meet industry best practice standards and conform to all applicable legislation.

REINSW backs its compliance review service by offering you a **money back guarantee** if we cannot identify any current areas of risk in your business.

**Don't take the risk** – protect your business and your income today!

Call to book your Compliance Review on 02 9264 2343 or email [compliance@reinsw.com.au](mailto:compliance@reinsw.com.au)

This service is available to members and non-members. REINSW members receive a highly discounted price.

# RESIDENTIAL SALES: Can I claim commission?



BY ANN BANISTER AND DAVID SMALL

IF YOUR VENDOR SWITCHES TO ANOTHER AGENT AND THEN ACHIEVES A SALE TO A PURCHASER YOU INTRODUCED, CAN YOU CLAIM PART OF THE COMMISSION?

One of the most common questions to the REINSW Member Helpline is whether an agent may claim commission if they have lost their listing to a competitor.

It is a problem that occurs most often when the property market is slow. A vendor will become frustrated that it has taken so long for their property to sell. Eventually they give up on their agent and find a new one.

Often the second agent will sell the property to someone who had first viewed it weeks or even months earlier – while it was listed with the first agent. Perhaps the buyer was just taking some time to make up their mind or arrange finance. Or maybe it has taken this long for the vendor to lower his or her expectations.

The callers to the REINSW Member Helpline can sometimes be very distressed about the situation. It is not just that they feel they deserve part of the commission; there can be a sense of injustice that they didn't make the sale, or hurt pride that their competitor achieved what should have been the first agent's sale.

## What can be done?

Based on the experience of previous cases, it is necessary to prove that, as the first agent, you have been the effective cause of the sale. It is not always enough simply to have held an open house inspection where the buyer first showed up. It is not always enough to have made a few phone calls to the buyer, or to have received an offer.

As the first agent, you really have to be involved in getting the deal over the line. What constitutes being the 'effective cause' of a sale can differ from sale to sale. Whilst it is possible for two agents to each be

'effective causes' of a sale, such circumstances are rare.

As a commercial reality, sometimes your best option is to pursue a conjunction with the second agent.

If you have already dedicated considerable time and effort to the sale, your competitor may recognise that it is only fair to work together and share the commission. It also makes good business sense in the long run, because your competitor may one day need to seek a conjunction with you.

If a conjunction is an option that the second agent wishes to pursue with the first agent, the agents need to sign a conjunction agreement, which is available from REINSW.

If your competitor refuses to offer a conjunction, your chances of claiming part of the commission will depend upon the individual circumstances of your case. Unless

UNLESS YOUR INVOLVEMENT WITH A POTENTIAL BUYER REACHED EXCHANGE, WE WOULD RECOMMEND THAT YOU SIMPLY CUT YOUR LOSSES AND MOVE ON.

you have authority to act as an agent for the vendor, you must no longer contact the vendor seeking a listing.

Unless you can maintain a strong claim for commission, we would recommend that you simply cut your losses and move on. You may need

## What is an effective cause of sale?

The following comments were made by a judge in the case *Berben v Hedditch (1982) ANZ ConvR 535*, which sheds some light on what is and isn't an effective cause of sale:

"Where the substance of the conduct of the agent relied on is the introduction to the property of the person who later becomes a purchaser, in a sale not effected by him, there still remains a question of fact to be decided by reference to the particular circumstances of the case whether the introduction and the manner of doing so

brought about the sale ... This requires a consideration and evaluation of all circumstances which may have had some causal relationship with the sale ...

"It is an erroneous view, although sometimes held or asserted by those engaged in this class of business, that the agent who first shows the property to the eventual purchaser, or first informs him of it or who first sparks some interest in it, or thinks he has done any of these things, has some kind of proprietary right in that person,

commission-wise, if he should later buy ... The mere showing of the property may not produce a sale, so it is only the addition of the skill and effort of the salesperson which produces the sale ...

"Some properties once seen may sell themselves to the buyer. The introduction procures the sale. In the case of some properties in relation to some prospective purchasers ... procuring the sale may depend on inducing the purchaser to buy the property in question rather than some other property. The

price of the property eventually sold may be higher than desired or intended, but the agent may persuade the purchaser to change his mind or may demonstrate or assist in providing ways to finance the purchase, or the agent's skill may set the negotiation going in a way where compromise is reached which otherwise would not have occurred. These are but examples of the varied ways that a sale of a particular property to a particular person can be procured not by the introduction, but by the efforts of a particular agent."



to seek legal advice when deciding how to proceed.

If you are the second agent, we would recommend that – prior to signing an agreement with the vendor – you ask about the previous marketing of the property and any possible offers or exchanges, because this will help you determine whether there could be a commission claim later on.

#### **Pursuing commission**

If, as the first agent, you wish to pursue commission from the vendor, make sure that you have sufficient documentary evidence to prove your claim that there was a causal link between your actions and the ultimate sale.

If you wish to pursue the commission, your agency must personally serve on the vendor a statement of claim, satisfying all of the requirements of section 36 subsections (1) and (2) of the *Property, Stock and Business Agents Act*.

Section 36 requires strict compliance. The statement of claim must be in writing and include the amount claimed and particulars of the services performed in respect of that amount.

Proceedings to recover commission cannot be commenced until 28 days after the statement has been served. This period is in place to enable the vendor to decide whether he or she will apply to the Consumer, Trader and Tenancy Tribunal to argue their case that the commission should not be paid.

Note that if you are considering claiming a share of commission, it is likely to be far cheaper and faster if you can negotiate a resolution with the other agent instead of taking the matter to court.

We have heard of agents who have spent thousands of dollars on legal fees and dedicated considerable time to challenge their competitor in court. Sometimes the commission itself is only a small

dollar value. The agent really just wants to prove a point.

We would recommend that in many cases, agents would be better off spending their time, energy and resources looking after their current clients and on seeking new listings.

#### **Don't lose the listing in the first place**

Prevention is better than cure. If a vendor's property is taking a long time to sell, clearly explain the reasons why. Keep up constant communication with your clients – both good and bad news. In fact, telling them the bad news (“No one showed up at your open for inspection today”) can help to build trust, because they know you are not hiding anything.

Discuss new tactics for marketing, for example are you targeting the right types of buyers? Could you change the wording of the property's ads? Perhaps use different pictures, or place the ads in different media?

Does the vendor have unrealistic expectations of price? Has the market changed?

Does your vendor have a clear understanding of current market conditions? What evidence can you provide that this experience is normal for the current market?

Sometimes, despite all your best efforts, you can still lose a listing. In many cases, it is probably best for you to accept that this can sometimes happen and simply move on.

*Ann Banister and David Small are licensed real estate agents with extensive experience in the real estate industry. They work in REINSW Agency Services and answer calls for the REINSW Member Helpline.*

*For more information about the issue of effective cause of sale, call the REINSW Member Helpline on (02) 9264 2343 or email [helpline@reinsw.com.au](mailto:helpline@reinsw.com.au). ♦*

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# A mould decision

BY ROSLYN ALDERTON

A RECENT TRIBUNAL DECISION HAS REINFORCED THAT BOTH TENANTS AND LANDLORDS HAVE RESPONSIBILITIES WHEN IT COMES TO DEALING WITH A MOULD PROBLEM IN A PROPERTY.

## Background

*Upton v Fitzgerald (Tenancy) [2008] NSW CTTT 1125* centred on a five-bedroom property where mould became so bad that the tenants were forced to vacate for health reasons.

The property had a total of six children residing in it from time to time. At the time the tenants first moved in, no mould was evident. Six months later, following persistent rain, mould and damp problems emerged.

The mould problems were brought to the attention of the landlord through their agent. A builder inspected the property and suggested that the problem may be solved by moving an air conditioning unit to the outside. This was done, but the mould and dampness continued.

Later, during a routine inspection, the landlord's agents again noted a mould problem and requested that a handyman remove the mould from the walls, window sills and screen frames. By the time the tenants eventually moved out – eight months after the mould first appeared – this work had not been carried out.

## The tenants' responsibility

The tenants sought compensation in the Consumer, Trader and Tenancy Tribunal (CTTT) and produced numerous photographs of clothing, goods and items of furniture that were visibly damaged by mould to varying degrees.

The CTTT Member accepted the evidence that the tenants were compelled to vacate the premises for health reasons.

However the Member ordered that the landlord pay compensation of just \$2,130 out of the \$9,481 that was claimed because the tenants had not done enough to mitigate the loss.

THIS CASE DEMONSTRATES THAT THE LANDLORD HAS A RESPONSIBILITY TO ENSURE THAT A MOULD PROBLEM DOES NOT GET OUT OF HAND.

"Section 15 of the *Residential Tenancies Act* imposes on parties an obligation to minimise loss from the breach of a residential tenancy agreement," the Member wrote in the judgment.

"In general, it is the obligation of a plaintiff (or claimant) to take all reasonable steps to mitigate the loss caused by the defendant's (respondent's) breach and a party cannot recover damages for any loss which he or she could have avoided but failed through unreasonable action to avoid."

In this case, the Member found that the tenants had failed to do enough to clean mould from the items they were claiming had been damaged.

For example, the tenants claimed \$450 for the cost of restoring an antique timber sideboard. "There is no evidence that this item could not have been satisfactorily cleaned and no allowance is made," the Member found.

In another example, the tenants claimed \$60 for two black timber speakers. "There is no evidence that the speakers were not working. Allow nil," the Member found.

The Member also included depreciation for the age of the items when deciding on compensation. A \$1,399 claim for a three-piece lounge suite was reduced because it was more than



seven years old, with a total of just \$500 allowed.

The Member did not award compensation for either medical expenses or for alleged loss of enjoyment because the tenants did not bring any evidence of these.

## The landlord's responsibility

The case also demonstrates that the landlord has a responsibility to ensure that a mould problem does not get out of hand. The Member ruled that the landlord breached two sections of the *Residential Tenancies Act*: section 22, which deals with the tenant's right to quiet enjoyment, and section 25, which is about the landlord's responsibility for cleanliness and repairs.

Even though the landlord had moved the air conditioner outside, the mould problem had continued and the landlord had failed over a period of three months to fulfil the promise to get a handyman to clean the mould off the walls and window sills.

It could be argued that the tenants could just as easily clean the mould off the walls themselves. However in the Member's ruling that the landlord breached section 25 of the Act, it is clear that the Member believed it

to be the landlord's responsibility to remove the mould from the building as part of their legal obligation to "maintain the residential premises in a reasonable state of repair".

In other words, it was the landlord's responsibility to clean the mould off the walls and stop the problem spreading further, but the tenants' responsibility to try to mitigate the loss by cleaning mould off items of furniture they claimed were damaged.

In regards to the responsibility for the claimant (in this case the tenants) to mitigate the loss, agents should note that the onus is on the defendant (i.e. the landlord) to show that the claimant has acted unreasonably in failing to mitigate the loss.

It is also worth noting that a common cause of mould is when a property is poorly ventilated due to tenants always keeping the windows shut. The agent in this case had requested that the tenants open the windows. In reply, the tenants alleged that they did in fact leave three windows ajar at the rear of the house but felt it would be a security risk to open others.

## Advice for property managers

Mould can be a particular worry for





MOULD CAN BE AVOIDED BY ENSURING THAT THE PROPERTY  
- AND ESPECIALLY THE BATHROOM - IS WELL VENTILATED

property managers because of the potential legal claims.

Mould is usually caused by condensation, such as steam from showers. The best way to prevent this kind of mould is to ensure rooms are well ventilated and that bathrooms have a fan or at the very least, an open window.

Mould can also grow when soil moisture is drawn into the structure of a building from below the floor if there is not enough ventilation underneath the building.

Property managers can minimise their risk and liability by:

- clearly explaining mould prevention to tenants at the commencement of their tenancy;
- keeping accurate repairs records;
- investigating further when mould indicators such as damp and musty smells are brought to their attention;
- taking prompt action to eliminate mould when it appears (such as

using de-humidifiers or scrubbing the walls with sugar soap or Exit Mould); and

- carrying out preventative maintenance when building defects are identified (such as a lack of underfloor ventilation).

If you have any doubts about the safety or effectiveness of mould clean-up activities, it would be prudent to consider using professionals to do the clean-up work.

Property managers should also record in writing every communication with a landlord, making it clear to the landlord that it is the landlord's responsibility to ensure that mould is cleaned up – and that this should be an urgent priority.

Agent's with professional indemnity insurance with RealCover can also seek assistance via the RealCover Hotline on 1800 803 636.

*If you have any questions about dealing with mould in a managed property, contact the REINSW Member Helpline on (02) 9264 2343 or email [helpline@reinsw.com.au](mailto:helpline@reinsw.com.au). ♦*

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# Business as usual – a cautionary tale!



BY JODIE MASSON AND STEVE MACKAY



WHEN A NON-RESIDENTIAL PROPERTY OWNER SELLS A PROPERTY MANAGED BY A PARTICULAR AGENT AND THE NEW OWNER DECIDES TO RETAIN THAT SAME AGENT, THE AGENT MIGHT WANT TO DEMONSTRATE TO THE NEW OWNER ITS 'BUSINESS AS USUAL' APPROACH (I.E. A SMOOTH TRANSITION WITH LITTLE CHANGE IN RELATION TO THE AGENT'S DEALINGS WITH THE TENANT).

However, such an approach can unintentionally lead to disastrous legal consequences for the new owner, as occurred in the case of *Lighting by Design (Aust) Pty Ltd v Cannington Nominees Pty Ltd [2008] WA SCA 23* (Lighting by Design).

(While this is a Western Australian case, the decision in the case was based on common law principles and not specific WA legislation, and accordingly the decision is applicable to NSW real estate agents.)

## Background

In *Lighting by Design*, a tenant of premises in Western Australia entered into a seven year lease with the then owner of those premises (Owner No. 1).

Before the lease expired, Owner No. 1 sold the premises to a new owner (Owner No. 2). Completion of the sale occurred on 12 July 2006. Owner No. 2 appointed the existing managing agent to operate and manage the premises, such appointment to commence on the day following completion of the sale (i.e. 13 July 2006).

Importantly, the lease was not registered. Before completion of the sale, Owner No. 2 obtained legal advice to the effect that it was not bound by the terms of the lease.

Shortly after completion of the sale, Owner No. 2 informed the agent that Owner No. 2 considered that

**DESPITE KNOWING THAT OWNER NO 2 DID NOT CONSIDER ITSELF BOUND BY THE LEASE, THE AGENT PROCEEDED TO DEAL WITH THE TENANT ON A LARGELY 'BUSINESS AS USUAL' BASIS.**

it was not bound by the lease and that Owner No. 2 proposed to relet the premises at the prevailing market rent.

## What did the agent do?

Despite knowing that Owner No. 2 did not consider itself bound by

the lease (and proposed to relet the premises at the prevailing market rent), the agent proceeded to deal with the tenant on a largely 'business as usual' basis.

Among other things, the agent sent to the tenant:

- a letter dated 30 August 2006 (enclosing another invoice statement dated 1 September 2006 and an electricity statement dated 13 July 2006) referring to the "new ownership structure";
- a letter dated 19 September 2006 requesting a copy of evidence of currency in relation to insurance and stating that "under the terms and conditions of your Lease, you are required to maintain insurance policies ...";
- a letter dated 19 October 2006 stating that the rent was then in arrears and again referring to "the terms of your Lease";



RETAIL/OFFICE PREMISES

TO LET

- a letter dated 14 November 2006 stating that “under the terms and conditions of your Lease your rent is to be reviewed commencing 1 July 2006 in line with the June 2006 Consumer Price Index”; and
- various notices for payment relating to water rates, council rates, land tax etc. Again, some of the letters referred to the fact that these amounts were payable “under the terms and conditions of your Lease”.

#### Legal analysis

The Court agreed that at completion, the unregistered lease did not bind Owner No. 2. This meant that immediately after completion, the tenant was a tenant at will. However, the tenant successfully argued that there had been sufficient acts of part performance by it so as to give rise to an agreement for a new lease (on the terms of the unregistered

THE COURT'S DECISION MEANT THAT OWNER NO. 2 COULD NOT RELET THE PREMISES AT THE PREVAILING MARKET RENT AS IT HAD ORIGINALLY INTENDED (AND WAS ENTITLED) TO DO.

lease) between Owner No. 2 and the tenant.

It was held that such part performance had been established by various acts of the tenant including:

- remaining in possession of the premises coupled with the

payment of rent at an increased rate subsequent to a rent review;

- the retrospective payment of increased rent for the months of July to November 2006;
- the payment in December 2006 or in early 2007 of water rates, council rates and land tax for the whole of the period 1 July 2006 to 30 June 2007; and
- the delivery of certificates of insurance as required under the lease,

all of which occurred in response to the various letters and notices sent by the agent to the tenant as part of the agent's ‘business as usual’ approach.

#### Conclusion – clarity is king!

The Court's decision meant that Owner No. 2 could not relet the premises at the prevailing market rent as it had originally intended (and was entitled) to do. Owner No. 2 was bound to the unregistered lease

which was on commercial terms far less attractive to Owner No. 2 than it could have negotiated on the open market. There is little doubt that the unfortunate outcome for Owner No. 2 in the Lighting by Design case could have been easily avoided. Put simply, the agent should have communicated with the tenant in a way which clearly indicated that the lease did not apply as between Owner No. 2 and the tenant.

An easy way of achieving this would have been for the agent to inform the tenant promptly following completion that Owner No. 2 was not bound by the lease but had agreed to allow the tenant to remain in the premises as a tenant at will (and otherwise on the terms of the lease) while a new lease was being negotiated by the parties.

*Jodie Masson and Steven Mackay are Partners in the Property, Development & Construction team at Middletons. For more information, call (02) 9513 2300. ♦*

# Claims can have happy endings

IMPROVE YOUR DEFENCE POSITION BY UNDERSTANDING WHAT USUALLY HAPPENS ONCE YOU ARE NOTIFIED OF A CLAIM.

A normal day in the life of a real estate agent is a hectic juggle of appointments, telephone calls and paperwork. You're rushed off your feet all day long and the phone doesn't stop ringing even after hours. At the same time you're dealing in properties worth hundreds of thousands of dollars and you're aware that a small mistake could cost big money.

You've got insurance which is supposed to cover you if you're faced with a claim, but there are those horror stories about claims that aren't paid, huge excesses and prolonged court hearings.

Fortunately, such experiences aren't the norm and you can proactively improve your own defence position by understanding how a claim usually plays out.

## Finding out about a claim

In the real estate profession, the majority of claims relate to professional indemnity. These usually involve allegations concerning:

- misleading or deceptive conduct in relation to the *Trade Practices Act 1974*;
- personal injury; or
- property damage.

You could find out about a claim indirectly through proceedings being issued between a tenant and the landlord of a property you manage. Or you could directly receive a written notification threatening legal proceedings.

## What to do when notified of claim

Regardless of how you are notified of a potential claim, you should

## HAVING SUBSTANTIAL, DOCUMENTARY EVIDENCE WILL ENABLE YOUR SOLICITOR TO DEMONSTRATE THE EVENTS LEADING UP TO THE ALLEGED INCIDENT AND YOUR RESPONSES.

immediately notify your insurance broker who will collect brief details on the matter and submit a claim form to the insurer on your behalf.

If your insurance includes access to a legal advisory service, you can contact them for immediate advice.

Secure your property management or sales file in relation to the matter and write down a chronology of events relating to the matter while you still remember.

Good record-keeping is critical to your defence.

Once you notify your insurance broker of the potential claim, you will be asked for:

- all correspondence between you, the client and any relevant third parties (e.g. tradesperson or body corporate);
- all tax and maintenance invoices;
- all telephone records, emails, faxes, diary notes, computer records and file notes;
- signed appointment documents, lease agreements and sale contracts;

- condition reports, account statements, quotes, builder's reports etc;
- complaints register and maintenance log book; and
- evidence of trades people's qualifications and insurance.

The strength of your defence will be based on the quality of your evidence. Having substantial, documentary evidence will enable your solicitor to demonstrate the events leading up to the alleged incident and your responses.

## Responding to a claim

Once the claimant has provided the full details of their allegation, your broker will forward the information to the insurer who will usually appoint a solicitor to determine if the claim is covered by your insurance policy. If it is, the solicitor will be instructed to defend and settle the matter accordingly.

It is during this phase that the quality of your record-keeping will become crucial as it is a key determinant in whether you are found liable or not, and if you are, the size of the settlement.

Some claims do have happy endings for the agent, as you can see from the case study on this page, where a well-kept property management file assisted an agent's defence.

For more information, call Aon on (02) 9683 0921 or email [nswre@aon.com.au](mailto:nswre@aon.com.au). ♦

## Disclaimer

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## Case study

In a recent case, a tenant alleged that she slipped on a recently repaired ramp on a property and fell, sustaining a fractured left ankle.

She issued a notice of claim against the property manager and the owner of the property.

A compulsory conference was called where the tenant's solicitors argued that their client had made specific complaints to the property manager about the ramp on a number of occasions and that these were not attended to. She also alleged that the real estate agency was obliged to inspect the ramp following the repairs to ensure that the alleged defect had been remedied.

In response, the property manager's solicitor used evidence from the property manager's file to dispute the fact that the tenant had made any further complaints.

It was further maintained that the property manager is not expected to have the necessary building/engineering knowledge to do anything other than act on defects which are reported to them or identified during ordinary property inspections.

At the settlement conference, the tenant presented a schedule of damages totalling more than \$195,000. However, the solid evidence provided by the defence team considerably reduced the total amount payable and, in particular, the property manager's liability in the case.

Ultimately, the matter was resolved for \$70,000 in damages and \$20,000 in costs, with the property manager's insurer's contribution being \$15,000. The handyman also contributed \$15,000 and the property owner contributed the remainder.

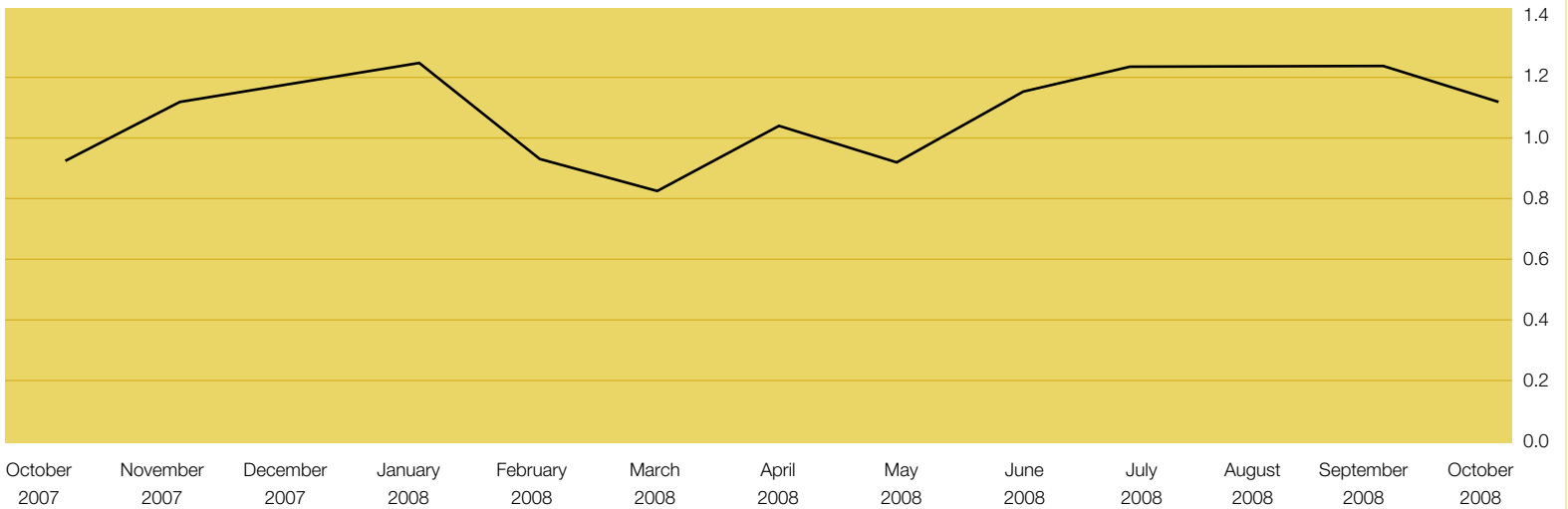
This result was made possible through well maintained and accurate property management files and highlights the importance of regular and thorough inspections.



## Residential vacancy rate – Compiled by REINSW

<b>SYDNEY</b>	<b>Oct-08</b>	<b>Sep-08</b>	<b>Aug-08</b>	<b>Jul-08</b>		<b>Oct-08</b>	<b>Sep-08</b>	<b>Aug-08</b>	<b>Jul-08</b>
Inner	1.1%	1.5%	1.4%	1.2%	ALBURY	3.4%	3.0%	3.3%	3.7%
Middle	1.1	1.1	1.2	1.3	CENTRAL WEST	4.7	4.4	2.5	2.4
Outer	1.0	1.1	1.1	1.0	COFFS HARBOUR	2.9	4.1	3.4	4.6
Total	1.1	1.2	1.2	1.2	FAR WEST	-	-	-	-
<b>HUNTER</b>					MID-NORTH COAST	2.7	2.4	2.4	2.1
Newcastle	1.6	1.6	1.6	1.5	NEW ENGLAND	3.9	4.1	4.0	4.0
Other	1.4	2.1	2.6	1.6	NORTHERN RIVERS	2.8	1.9	2.0	1.9
Total	1.5	1.8	2.1	1.5	ORANA	3.6	2.6	2.0	1.7
<b>ILLAWA</b>					RIVERINA	2.6	2.7	2.7	2.6
Wollongong	2.2	1.4	2.1	2.3	SOUTH COAST	3.4	4.1	4.0	3.8
Other	1.9	2.4	2.6	2.3	SOUTH EASTERN	2.5	3.7	2.7	3.8
Total	2.1	1.8	2.3	2.2					
<b>CENTRAL COAST</b>									
	2.2	3.0	3.1	3.2					

## Sydney vacancy rate



Source: REINSW Vacancy Rate Survey

Please assist REINSW in compiling the vacancy rate by responding to the survey emailed each month.

To find out more, please call (02) 9264 2343 or email info@reinsw.com.au.

## Sydney weekly auction clearance rates – provided by Australian Property Monitors

Week Ending	Inner Sydney		Inner West		Lower North		Inner East		Sydney	
	Number Auctioned	Auction Clearance Rate	Number Auctioned	Auction Clearance Rate	Number Auctioned	Auction Clearance Rate	Number Auctioned	Auction Clearance Rate	Number Auctioned	Auction Clearance Rate
26/10/2008	48	55.2%	32	55.9%	55	24.1%	85	50.9%	452	42.4%
19/10/2008	64	41.2%	24	57.7%	34	50.0%	72	39.5%	349	43.3%
12/10/2008	37	59.2%	20	68.2%	47	50.9%	36	56.1%	316	49.7%
5/10/2008	47	56.4%	38	53.8%	30	51.3%	40	46.0%	364	47.5%
28/9/2008	24	40.6%	12	75.0%	25	45.7%	30	48.6%	213	45.6%
21/9/2008	75	51.2%	25	74.1%	73	52.2%	83	52.0%	504	49.1%
14/9/2008	45	61.8%	20	30.4%	40	50.0%	75	57.6%	355	46.7%
7/9/2008	55	57.8%	21	68.2%	34	52.2%	47	52.8%	299	45.7%
31/8/2008	36	56.2%	18	66.7%	32	34.1%	52	66.7%	276	48.8%
24/8/2008	51	47.5%	20	59.1%	65	43.0%	78	53.3%	471	44.7%
17/8/2008	47	55.0%	17	44.4%	36	52.4%	41	53.1%	283	46.1%
10/8/2008	54	56.2%	15	60.0%	36	54.8%	49	45.0%	297	45.5%

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Southern Estates Wollongong

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**Robbie Seymour**  
Remax Grafton

"Since I was advised of the release of the realestateworld website last year I was immediately impressed with the direction this was taking. I was the only full user of Red Square services in our area and my agency was quickly found to be the dominant agent on the website. Over the past months the enquiry via the website has been close to the major media competitors out there and the new web upgrade is nothing but brilliant and full marks go to your web guys, I even got them to build a new website for us."



**Peter Butcher and  
Chris Harvey (right)**  
Principals, Lismore Real Estate  
& North Coast Commercial  
Real Estate

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greater distribution, superior content and better coverage at affordable rates. Plus it's FREE on a Friday, giving buyers and sellers time to organise themselves for the weekend's open houses. At Lismore Real Estate, we recommend Realestateworld as an integral part of our media mix in all marketing campaigns. Realestateworld is fresh, professionally presented and meets the needs of our business."

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# WISE INVESTMENT: Investing in yourself

A BUSINESS COACH WILL HELP  
MOTIVATE YOU TO ACHIEVE  
IN EVERY ASPECT OF YOUR LIFE.



BY CHRIS GRAY

COURSES, BOOKS, CDS AND INDUSTRY EVENTS ARE INVALUABLE TOOLS FOR AGENTS ON THE PATH TO SUCCESS. BUT ENLISTING A COACH OR MENTOR CAN OFTEN PAY FAR GREATER DIVIDENDS – AND IN A FRACTION OF THE TIME.

Speak to a highly successful person in any field and chances are you will learn that they have used coaches and mentors to help them get them to where they are – and fast. Elite athletes, for example, hire coaches and mentors to get them to peak performance in a fraction of the time than it would do it alone.

**What are you doing to improve your professional performance?** Isn't my current training enough?

If you want to double your income by increasing sales or halve your working hours by being more efficient, it will take some serious change. Most employees undertake employer-arranged CPD training, which keeps them up to date in their industry, but often it's not enough of a catalyst for major change.

Books can inspire you, group courses can load you with knowledge and motivate you for a short time – but sometimes it's worth investing in one-on-one intensified training.

A major advantage of face-to-face training or coaching is the motivation

it provides. Whether you meet every week or every month, you are held accountable by a professional who ensures you meet your goals.

### Coach or mentor?

Coaches often teach you how to go about finding the answers for yourself. A coach may not necessarily know your industry or know the answers to your issues. However, many are trained in helping you get over the psychological issues that may have stopped you in the past and then help you build a system of success for the future.

Mentors often do have industry knowledge or expertise. You would go to them for the answers or solutions you may not have considered before. Many business owners or executives may need a mixture of coaches and mentors throughout their working lives.

### What areas could I focus on?

Business – coaches might focus on helping you work smarter, not harder, so you can reduce your working hours; mentors might point you to how things are best done in your industry.

**Personal** – if you're aiming for a balanced life, then it's not all about work, work, work. Investing some time and effort into setting and achieving some personal goals will make you more focused during the week because you'll look forward to your evenings and weekends. Both business coaches and life coaches can help you grow in this area of your life.

**Fitness** – it's hard to be energetic at work if you're physically unfit and feel drained. A regular workout with a trainer will get you fitter



## COACHES AND MENTORS CAN SHOW YOU THAT ANYTHING IS POSSIBLE IF YOU GIVE IT A GO.

in a fraction of the time. It's also a good solution for those of us who find it hard to get motivated. You might hate the one-on-one sessions, but you'll get addicted to the feeling afterwards – particularly when you know you are achieving your goals. It also balances out a lot of the food and alcohol from celebrating your successes!

### What results can you get?

Even with coaching or mentoring, you really only get out what you put in. The sooner you see some success, the more you can justify spending more time and money on it.

At age 31, I hired a coach for 12 one-hour sessions over three months at a cost of \$1,300. Three months later I realised my goal of retiring from full-time work and buying the car of my dreams. I now spend about \$30,000 a year on coaches and mentors. For me, they're well worth the investment. Last year one of my mentors doubled my income within a month, purely by focusing my attention on the more profitable activities.

Coaches and mentors can show you that anything is possible if you give it a go.

*Chris Gray is a leading property expert who provides opinion and commentary regularly on Sky Business News, Channel Nine and other major media. For a FREE copy of his latest book, The Effortless Empire: The Time-Poor Professional's Guide to Building Wealth from Property, visit [www.yourempire.com.au](http://www.yourempire.com.au). ♦*

# Leveraged property investment through super

INVESTMENTS THROUGH SELF MANAGED SUPERANNUATION FUNDS ARE OFTEN IN SMALL TO MEDIUM-SIZED COMMERCIAL PROPERTIES.



BY BELINDA SMITH

REAL ESTATE PROFESSIONALS COULD BENEFIT FROM A GREATER UNDERSTANDING OF HOW TO INVEST IN PROPERTY THROUGH A SELF MANAGED SUPER FUND.

With the recent falls in the share market, people are becoming more anxious about their superannuation and are seeking alternatives to investing in stocks and managed funds. People who establish Self Managed Superannuation Funds (SMSFs) are eager to be in charge of their own financial destiny. Many of these people are 'pro property' and have traditionally been frustrated that direct property investment through superannuation was limited to fully funded acquisitions that did not allow any leverage.

An SMSF loan is a viable option for funding a property purchase. As there can be up to four members contributing to one SMSF, the collective borrowing power of the members increases, so their investment purchases may not be restricted to lower priced properties. As a result, many smaller investors are now actively pursuing small and medium commercial property acquisitions.

Downstream compliance and taxation challenges are extremely likely if the loan or trust structures are incorrectly established, so it is imperative that a suitable structure be set in place before the property is purchased.

## AS THERE CAN BE UP TO FOUR MEMBERS CONTRIBUTING TO ONE SMSF, THE COLLECTIVE BORROWING POWER OF THE MEMBERS INCREASES

### Case study

Steven and Jane are in their mid 30's and have always had a desire to provide for their future income streams through property investment. They have already acquired four geared properties but are keen to keep investing in one per year until they reach their goals. Unfortunately they have just been hit with the double whammy of stagnant property prices, which has affected available equity, and lenders declining their loan applications based on servicing because of their existing negatively geared portfolio.

They are now faced with the prospect of two or more years without any acquisitions, which not only puts them behind on their goals, but they feel they are out of the market at a time when there are some 'great buys' to be had. Their adviser suggests that they look at their next acquisition through super. Steven and Jane

don't really understand how this can help as they are PAYG income earners and do not yet have an SMSF. In any event they have heard that gearing through super is quite low at around 70% and they normally like to be highly geared at 95% to 100%.

They are amazed to learn that, by rolling their existing super into an SMSF and utilising Superannuation Guarantee payments, rental income and concessional tax voluntary contributions, they can continue to build a property portfolio inside their SMSF. Over following years they acquire several more properties – inside and outside super – establishing both medium and long term income streams.

While an SMSF loan for property may be a great option for some investors, individual cases vary and professional independent advice should be sought before making any decision.

*Belinda Smith is Regional Sales Manager SMSF Loans at i-Financial Group Pty Limited.*

*SMSF Loans Pty Ltd specialises in working with accountants, financial planners, property groups and real estate professionals to ensure that the needs of mutual clients are met in a compliant and professional manner. ♦*

### Disclaimer

While care has been taken in preparing this article, the information is of a general nature only and individuals should consider their own circumstances before relying on this information.





# Important information about your super



## Superannuation is a long term investment

People are understandably concerned about their superannuation given the global financial crisis. If you are in a balanced option, like most Australians, you will have some exposure to shares and the recent falls in the share markets will have lowered your recent returns. Remember however that superannuation is a long term investment and over the longer term shares tend to out-perform most major asset categories.

## Be wary of short term decisions

Understanding the long term nature of superannuation is important when considering the implications of switching investment options. If you are concerned about current market volatility you should contact

your fund to discuss the investment options available to you.

## Understand what fees you are paying

When investment returns are low, it is vital to keep fees (including commissions) as low as possible. According to research and modelling by Superratings<sup>1</sup>, on average over a 40 year working life, the projected outcome based on fee differences alone for industry super fund members is \$118,476 more than retail fund members. This is a 23% difference resulting from lower than average fees charged by industry super funds<sup>2</sup>.

## If you are planning to retire

Many people nearing retirement will be especially anxious about the potential effects of the global financial crisis on their

superannuation savings. If you are in this category you should consider seeking impartial advice regarding your options from your super fund or financial adviser.

*To talk with REI Super about your superannuation please call 1300 134 433. ◆*

1. Commission by Industry Fund Services Pty Ltd  
2. The amount is not a prediction or estimate of an actual outcome. Differences in fees may change in the future and this would alter the outcome. The modelling shows projected outcomes, applying today's average fees for a sample of industry super funds and a sample of retail master trusts, over 40 years. The modelling is based on various assumptions including a starting age of 25, initial salary of \$50,000 and starting balance of \$50,000. Further assumptions are disclosed and explained at [www.industrysuper.com/assumptions](http://www.industrysuper.com/assumptions). Current at 1 July 2008 and may be revised if further information becomes available. Consider your own objectives, financial situation and needs before making a decision about superannuation because they are not taken into account in this information. You should consider the Product Disclosure Statement available from individual funds before making an investment decision.



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A guarantee to pay the highest commissions and rewards to agents and Property Managers.

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Your own dedicated Account Manager available to you 7 days a week as your point of contact at Direct Connect.

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**Direct  Connect**



# Membership news

## LET'S TALK ABOUT FORMS: The best legal protection

REINSW understands that in the sometimes delicate and/or complex negotiations between agent and principal, it is better to state various obligations rather than not address them. The last thing an agent wants to do is risk their fees and/or commission over a technicality. The *Property Stock and Business Agents Act* and *Regulations* set out the basic requirements for what must be included in agency agreements.

In addition, a number of specific clauses are included in REINSW agency agreements:

- Agents Indemnity and Liability to indemnify the agent from legal repercussions that may arise when properly carrying out his/her obligations under the agreement. This is very important in relation to professional indemnity insurance.
- Financial and Investment Advice to clarify that the agent is not the qualified person to offer such advice and that the principal should seek specific expert opinion.
- Material Fact to emphasise that the responsibility for disclosure

rests with the vendor or landlord and that any material fact must be disclosed by the agent to a prospective purchaser or tenant.

- Occupational Health and Safety to acknowledge that the principal is in charge of the property and as such responsible for any occupational health and safety risks or incidences.

Remember, REINSW forms are designed with the agent in mind and are backed by the professionalism and expertise of REINSW.

Make sure you use a form that has been designed with the best legal advice in the industry and that offers you the best possible legal protections.

*To order REINSW forms, call the REINSW Store on (02) 9264 2343, email [store@reinsw.com.au](mailto:store@reinsw.com.au) or visit [www.reinsw.com.au](http://www.reinsw.com.au).*

## DID YOU KNOW? Students can be REINSW members

Even if you are not yet employed in the real estate industry, you can still join your professional association and stay in touch with the latest industry news.

Student membership is for people currently undertaking studies in the areas of real estate, valuation or land economics with a recognised educational institution and who are not yet employed in the real estate industry.

Benefits of student membership include:

- member price for REINSW training;
- monthly *Journal*;
- access to member-only sections of the website;
- a \$10 gift voucher for REINSW Store; and
- discounts from our commercial partners.

All for a yearly fee of \$66 (incl GST), which is tax deductible.

*To find out more, call (02) 9264 2343, email [membership@reinsw.com.au](mailto:membership@reinsw.com.au) or visit [www.reinsw.com.au](http://www.reinsw.com.au).*



## PRODUCT OF THE MONTH: REINSW Diary

Be prepared for 2009 – purchase your REINSW diary today.

The diary includes 20 pages of specialist information:

- essential industry contact details;
  - floor space and measurement methods;
  - rent and stamp duty reckoners
- ... and much more.

### Available in two sizes:

- Desk diary (22cm x 27.5cm) - \$67.50
- A5 diary (16.5cm x 22.5cm) - \$58.50

Every order includes a free pocket diary. Prices include the 10% member discount.

*To order your diary, call the REINSW Store on (02) 9264 2343, email [store@reinsw.com.au](mailto:store@reinsw.com.au) or visit [www.reinsw.com.au](http://www.reinsw.com.au).*

## FOR THE CONSUMER: Selling a loved one's estate

The grief and shock experienced when a loved one dies is often a time of tangled emotions and one that can become intolerable when disputes occur among family members over selling the real estate assets of the deceased. Often, the estate will have several beneficiaries, possibly holding divergent views on what to do with the property: whether it should be kept in the family or sold, and if the latter, when this should occur. As these issues need to be carefully considered to ensure wise decisions are made, it is important to consult professionals whose impartial advice can help the parties keep emotions

in check and suggest outcomes that satisfy all.

Once lawyers have assessed the estate for probate and if a decision is taken to put any property up for sale, real estate professionals can be brought in to assess its condition and to advise on whether repairs or other work should be carried out. Usually only minor work, if any, is recommended. As well as being able to provide practical advice, real estate agents are used to dealing with deceased estates and will understand the emotions and difficulties such a sale can involve.

While disagreements, feelings and uncertainty can cause executors to delay decisions about when to sell, agents will guide them as to the best time to put the property on the market – whether it should be held for a spring market, for example, or whether to proceed immediately. They will also make recommendations about the best methods of sale which, more often than not, would be to put the property up for auction as the best means to determine its market value on the day. In making this choice it means the property will have been fully exposed to the

normal conditions of the market place – advertised, promoted, seen by potential buyers, and sold with the assurance that its full value was achieved. Another advantage with an auction is that all the beneficiaries can be present on the day of sale, be able to participate in any discussions on the reserve price and see the process through to a satisfactory conclusion.

*Members are welcome to reproduce For the consumer in their own newsletters. For the text of this article, please email [ralderton@reinsw.com.au](mailto:ralderton@reinsw.com.au).*



# Making the most of success

The Novak Agency at Dee Why on Sydney's Northern Beaches is not backwards in coming forwards!

This highly motivated and energised agency has recognised the benefits of promoting their recent REINSW Award for Excellence in the Website: Independent category.

Check out the picture of their shopfront located on busy Pittwater Road, where 50,000 people travel every day. The agency is also promoting the award with a banner across the top of their website, in the email signatures of staff, and on the back page of their local newspaper.

Principal Mark Novak said the REINSW award had played a significant role in encouraging clients to choose his agency.

"It's a stamp of approval with our clients," Mark said. "Some people have chosen us specifically on that. It's almost like an accreditation from the REI to get that award."

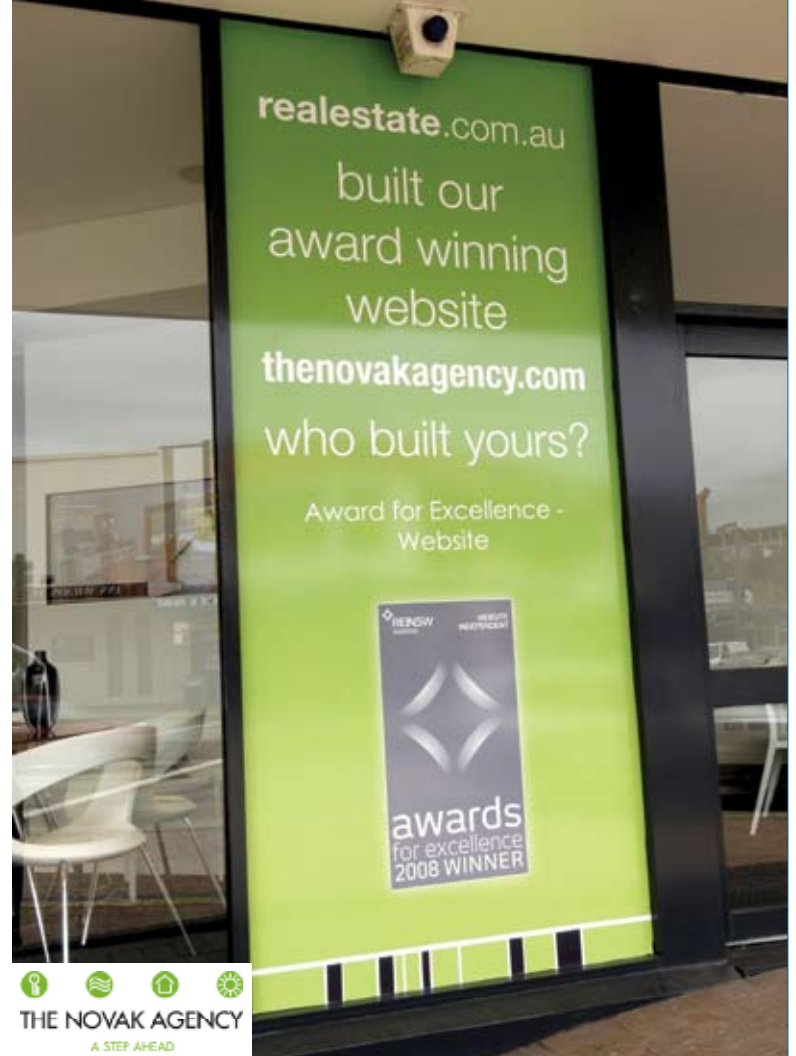
Lisa Novak said the award had raised the profile of the agency's website, which is run by a full-time staff member and is updated constantly.

"[The award] has allowed us to drive a vast amount of traffic through to our site which in turn has increased appraisals, sales and rentals," Lisa said.

Mark said he was keen to enter the awards again next year. In fact, the process of preparing the submissions had been helpful in preparing his business plans.

"The information that we supplied actually identified our key areas in our business that we wanted to work on," he said. "Making us do homework on ourselves made us realise what we are doing and where we are going."

*REINSW is happy to help award winners promote their achievements. If you're stuck for ideas, feel free to call us on (02) 9264 2343 and we can assist with marketing tips to enhance your success. ♦*



## NEW MEMBERS

### Ms K Bindon

Unit 1, 19 Dawson Street  
COOKS HILL 2300

### Coldwell Banker Double Bay

400 New South Head Road  
DOUBLE BAY 2028

### EZY Property Consulting

PO Box 402  
LIVERPOOL 1871

### LJ Hooker Business Broking

**Sydney Central**  
333/71 Jones Street  
ULTIMO 2007

### Mamo Real Estate Pty Ltd

395 Sydney Road  
BALGOWLAH 2093

### Marland Real Estate

Suite 1, 8 Boyle Street  
SUTHERLAND 2232

### Reece Realty Newcastle

PO Box 192  
JESMOND 2299

### Starr Partners (Kellyville)

44 Windsor Road  
KELLYVILLE 2155

### Starr Partners Kellyville Sales

2/27 Windsor Road  
KELLYVILLE 2155

### True Property Management Pty Ltd

Level 1, 1 Denison Street  
CAMPERDOWN 2050

### Practice members

**Mrs D Barrett**  
LINDFIELD 2070

### Mr A W Blomfield

PADDINGTON 2021

### Ms M Donnelly

WALGETT 2832

### Mr M C Thompson

LINDFIELD 2070

### Reciprocal

**WZ Domaine**  
Level 1, 30 Inkerman Street  
ST KILDA 3182

### Student members

Mr A Ashar  
Mr W Brown  
Ms J Cameron  
Mr A D Cox  
Ms M Edis  
Mr G Goldberg  
Ms R Jensen  
Mr B Kim  
Mr Y S Robert Kim  
Mr C Loprevite  
Mr R McGlinchey  
Mr B Mckiernan  
Ms A Minenko  
Mr M Pengilley  
Ms Y Qi  
Mr R Sorial  
Mr R Weinstein  
Mr B Wilson

## NEW MEMBER PROFILE: Mamo Real Estate, Balgowlah

After 15 years working in the financial markets and six years in real estate, Jennifer Mamo purchased a shop in Balgowlah on Sydney's Northern Beaches this year and has now established her own business, Mamo Real Estate Pty Ltd.



JENNIFER MAMO

Her focus has been on providing a complete range of services for residential properties in both sales and property management, and this has now expanded into the commercial arena.

As a winner of 2005 REINSW awards, Jennifer knew the value of being part of this professional organisation and the confidence it instills in the general public knowing they are dealing with an agency at a professional level.

# Real benefits

REINSW IS YOUR PROFESSIONAL ASSOCIATION FOR ADVICE, SUPPORT, KNOWLEDGE, EXPERIENCE AND TRAINING. NO MATTER WHAT AREA OF THE PROPERTY INDUSTRY YOU WORK IN, REINSW WILL SUPPORT YOU TO:

## 01 Build your business

- REINSW branding
- REINSW Awards for Excellence
- REINSW Find an Agent
- REINSW networking and member forums

## 02 Minimise your risks

- REINSW Compliance Review Service
- REINSW free member-only helpline service
- REINSW forms, leases and agreement documents
- REINSW legal advice and dispute resolution

## 03 Protect your interests

- Lobbying government and driving industry change
- Advocacy for members through the media
- Industry representation
- Educating consumers

## 04 Increase your knowledge

- REINSW Education and Training
- REINSW Real Estate Journal
- REINSW website
- REINSW specialist industry newsletters
- REINSW online news updates

## 05 Save you money

- REINSW Store
- REINSW member-only prices
- REINSW member discounts on a full range of commercial supplies

## REINSW member discounts

### Property websites

**realestate.com.au**  
REINSW member agencies receive a 10% discount on standard subscriptions, platinum subscriptions and selected advertising products on realestate.com.au and realcommercial.com.au.  
Call 1300 134 174.

### Professional indemnity insurance

**RealCover**  
REINSW member agencies enjoy a 10% discount off base premium professional indemnity insurance with RealCover. Minimise your risk and ensure your business is protected by experiencing the RealCover difference.  
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Discounts of approximately 15% to 20% less than retail price when purchasing office supplies such as stationery, blank paper, printer toners and bathroom products. Free delivery anywhere in NSW.  
Call Paul Gordon on (02) 9335 0956 or 0407 471 100 or email [paulg@ce.com.au](mailto:paulg@ce.com.au)

### Car services

**Private Fleet Car Buying Service**  
The usual service fee will be waived for REINSW members. Private Fleet are able to obtain fleet discounts on all new vehicles. Call 1300 303 181.

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Purchase any one of a number of vehicles from the extensive Mitsubishi range at the fleet owners' discount price.  
Call REINSW Membership on (02) 9264 2343 for more information.

### Media

**BRW**  
BRW offers REINSW members a highly discounted rate to BRW of \$179 for 12 months (50 issues). This offer is available to new subscribers to BRW only. Call 1800 032 577 or email [brwhelp@brw.fairfax.com.au](mailto:brwhelp@brw.fairfax.com.au).

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0408 276 749

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If your agency is a Full Firm or Branch member of REINSW, you can sign up as an individual member for just \$108.00 per annum (GST inc).

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### CATEGORY OF MEMBERSHIP

This category (Ordinary / Affiliate) is for an employee of a company that is currently a REINSW member (Full Firm, Branch or Reciprocal). Email [membership@reinsw.com.au](mailto:membership@reinsw.com.au) to join a Chapter(s) once your membership has been approved.

**The non-refundable Membership fee of \$108.00 per annum (GST inc) payable on application.**

### TO APPLY

- Complete this Application form and fax to Membership on (02) 9264 2098
- For more information call REINSW on (02) 9264 2343 or email [membership@reinsw.com.au](mailto:membership@reinsw.com.au)

## APPLICATION FORM

Please include copies of your current licence, valuers registration or certificate of registration

### 1. FIRM DETAILS

Name of REINSW member firm	<input type="text"/>		
REINSW membership number	<input type="text"/>	Contact telephone number	<input type="text"/>
Principal Representative / Office Manager	<input type="text"/>		

### 2. YOUR DETAILS

Name	<input type="text"/>	Position title	<input type="text"/>
<input type="checkbox"/> Cert. of Registration OR	<input type="checkbox"/> Licence	Number	<input type="text"/>
Are you a registered Valuer?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Expiry date	<input type="text"/>
Mobile	<input type="text"/>	Email	<input type="text"/>
		Date of birth	<input type="text"/>

(Please note: Access to member-only content on the website requires a unique email address for each person)

### 3. CREDIT CARD AUTHORISATION

Membership fee \$108.00 per annum (GST inc)

Please charge my  Visa  Amex  Mastercard

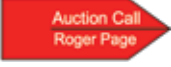












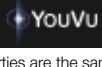
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Name on card	<input type="text"/>		
Signature	<input type="text"/>	Date	<input type="text"/>

## ACKNOWLEDGMENT AND UNDERTAKING

I acknowledge that acceptance of this nomination is subject to determination by the Board of Directors of REINSW. I understand that upon acceptance of my nomination I will be enrolled as an Ordinary or Affiliate Member of the Real Estate Institute of New South Wales and I undertake to be bound by the Constitution, Code of Practice<sup>1</sup> and policies of REINSW in force and as henceforth amended and adopted. I agree to pay membership fees when these become due and will be responsible for these until such time that I advise in writing to discontinue my membership and confirmed by REINSW. Fees are subject to change.

Date	<input type="text"/>	Name	<input type="text"/>
Signature	<input type="text"/>		

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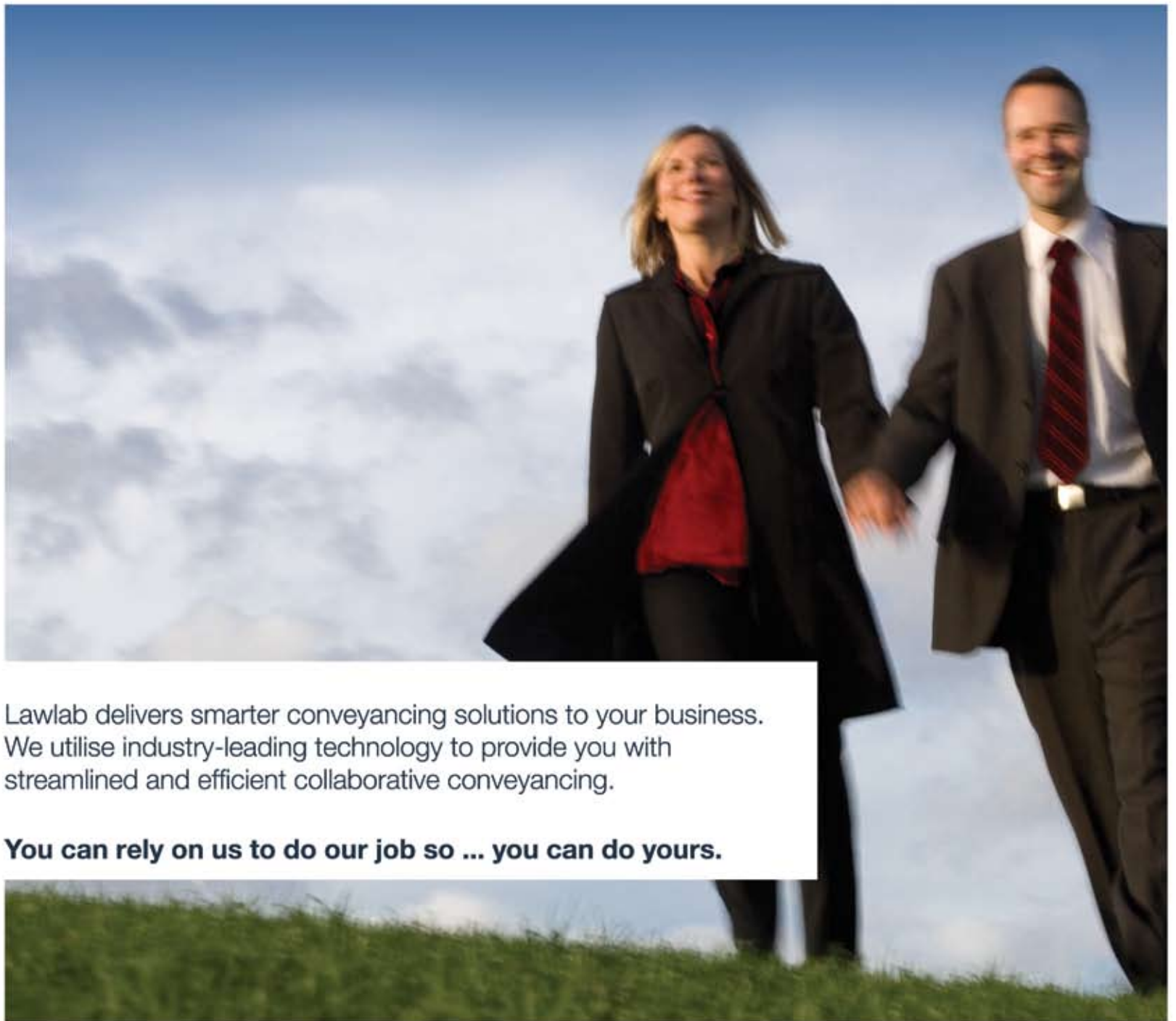
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