

***Draft Property and Stock Agents Amendment
(Underquoting and Other Agent Conduct) Bill
2026***

**The Real Estate Institute of New South Wales
Limited**

**Submission in response to the NSW Government's
Consultation Paper on Proposed Changes to the
Underquoting & CPD Frameworks**

22 January 2026

**TO: NSW Fair Trading
The Real Estate and Housing Policy Team
By email: PSAConsultation@customerservice.nsw.gov.au.**

1. Introduction

This submission has been prepared by The Real Estate Institute of New South Wales Limited (**REINSW**) and is in response to the Consultation Paper on reforming property agent laws in NSW: Underquoting, professionalism and enhanced enforcement powers issued by the NSW Government on 26 November 2025 (**Consultation Paper**).

REINSW is the largest professional association of real estate agents and other property professionals in New South Wales. REINSW seeks to promote the interests of its members and the property sector on property-related issues. In doing so, REINSW plays a substantial role in the formation of regulatory policy in New South Wales.

The Consultation Paper considers a series of reforms aimed at strengthening the regulatory framework governing underquoting in the New South Wales property market. These measures focus on improving transparency, consistency and consumer understanding in the way estimated selling prices are determined and communicated. In responding to these proposals, REINSW has considered the practical realities of agency practice across metropolitan, regional and rural markets, and provides recommendations to Government intended to support reforms that are effective, workable and proportionate for both consumers and industry professionals.

Part B of the Consultation Paper considers a series of proposed reforms to the Continuing Professional Development (**CPD**) framework for property agents in New South Wales. These proposals are directed at modernising the structure, delivery and oversight of CPD to ensure it remains fit-for-purpose in a changing regulatory and commercial environment. In responding to this part of the Consultation Paper, REINSW has focused on the practical implications of the proposed reforms for licence holders, approved providers and the sector more broadly, and provides guidance and recommendations aimed at supporting a CPD framework that is effective, accessible and proportionate to industry needs. REINSW considers that the success of any CPD framework will depend on the quality and relevance of training delivered, as well as the effectiveness of compliance and enforcement mechanisms. Without these mechanisms in place, a CPD framework cannot achieve its purpose and is futile. Accordingly, REINSW's comments below (in response to in Part B) seek to ensure that proposed reforms enhance professional capability, education and confidence across the industry, without imposing unnecessary administrative or operational burdens on approved providers and consumers.

REINSW appreciates the opportunity to provide feedback and recommendations to Government on the proposed reforms and offers the responses below to the questions in the Consultation Paper (using the same numbering as that used in the Paper).

PART A

2.2 Underquoting reforms

Using comparable properties to inform an agent's estimated selling price

1. Are there any other factors or characteristics that agents should take into account when considering comparable sales for an ESP? What are they, and why?

REINSW is concerned by a rigid requirement to identify three comparable sales, as this is often unworkable in practice. For instance, in rural NSW where sales volumes are low and properties are not close in proximity, and in prestigious markets where properties are architecturally unique and so genuinely comparable evidence may not exist. **REINSW recommends** a clearer definition of “comparable sales” be provided to support consistent application across industry, generally, including where agents compare property sales in all different locations and circumstances.

REINSW is also concerned by the proposal for comparable sales to be within a specified radius to the property for sale. REINSW is of the view that a fixed radius is not a reliable indicator of comparability in many markets, and school catchments, topography, transport barriers and unique property attributes may be better factors to consider. For instance, a house on one side of a highway may not be comparable to a house on the other side of the highway even if within the specified radius. Radius criteria are also largely irrelevant in rural areas where comparable properties may be 20–35km apart. Instead of specifying a radius, **REINSW recommends** a “reasonableness test” be introduced that allows agents to rely on the closest available evidence where three true comparables do not exist.

Another factor that agents should take into account when considering comparable sales for an ESP is vendor expectations. REINSW is aware that some properties are inherently difficult to price and that vendor expectations may exceed available evidence. These real-world scenarios must be acknowledged in the regulatory framework.

The above factors highlight the need for a flexible and context-sensitive approach to determining comparable sales.

Due to the complexities involved with determining the ESP and since it is a core statutory compliance obligation that directly underpins consumer protection and confidence in the NSW property market, **REINSW recommends** that the Government introduce the determination of the ESP as a compulsory CPD topic, with content developed by REINSW in conjunction with NSW Fair Trading and delivered by REINSW. Together, NSW Fair Trading can ensure the content is legally accurate, regulator-endorsed and aligned with current legislative and agency practice requirements and enforcement expectations. Delivery by REINSW provides consistent, practical and industry-specific guidance for agents, reduces the risk of inconsistent or incorrect interpretations being delivered by third-party providers, and REINSW can assist (in its role as the peak industry body) by promoting professional standards and compliance across the sector.

2. To what extent should agents be required to consider issues affecting a strata building when identifying comparable property sales for units within a strata scheme?

REINSW recommends that agents should be required to consider material building issues, such as combustible cladding defects, waterproofing issues, concrete cancer and asbestos, when selecting comparable sales, as these factors significantly impact the value of a strata building.

However, agents frequently lack access to reliable information about other buildings unless they have directly conducted transactions in those buildings. **REINSW recommends** enhanced publicly accessible registers and consistent reporting obligations for strata managers to assist agents in meeting their obligations. To do this, Government should determine the material issues that agents should consider when selecting comparable sales, consider whether a public register exists so that agents can search it to determine whether a property is listed and create relevant registers where they don't exist.

3. What challenges have agents had using comparable properties in setting an ESP that should be considered before the Bill and supporting Regulations are finalised?

REINSW identifies significant challenges arising from the delayed publication of sales data until after settlement. To combat these challenges, **REINSW recommends** mandatory disclosure and publication of sale prices once an exchanged contract for sale becomes unconditional. This will ensure comparable sales are current and meaningful. It would also materially improve the accuracy and reduce the ability for withheld or outdated data to distort ESP assessments. REINSW is concerned that market conditions often change significantly between unconditional exchange and settlement, so publication of sales data at the point when a sale is unconditional will ensure that agents are using more reliable comparable data. Combined with the difficulty of sourcing comparable sales in many markets and situations where vendor expectations exceed evidence of comparable sales, **REINSW recommends** Government require the use of unconditional exchanged prices for ESP calculations.

4. Is the proposed radius for comparable sales and the definition of metropolitan areas appropriate for all locations in NSW? If not, what changes would you suggest?

REINSW refers Government to its response to Question 1 above in addressing the response to this question.

5. Are there any other changes that you think should be made to the draft Comparable Sales Requirements? Please explain your answer.

REINSW has no further comments beyond those outlined above.

Statement of Information for sale of residential property

6. Do you think that the information proposed to be included in the draft SOI is sufficient to inform buyers about property pricing? Please explain your response, including any additional information you think should be included.

REINSW submits that the draft Statement of Information (**SOI**) contains sufficient information to support transparency, although it does introduce additional administrative work for agents but does not materially hinder the conduct or success of an auction campaign.

REINSW recommends that the reforms address the fact that the SOI cannot resolve situations where vendor expectations exceed available pricing evidence.

REINSW also recommends that strong enforcement by Government is undertaken to ensure maximum effectiveness of this proposal.

7. Is it appropriate to have separate SOI forms for (a) single properties, (b) multiple units, (c) metropolitan areas, and (d) non-metropolitan areas? If not, what alternatives would you suggest?

REINSW supports separate SOI forms due to the substantial differences between property locations, types and market dynamics.

8. Are there any other common scenarios for property sales that should have a dedicated SOI form? Please specify.

REINSW does not have any comments in response to this question.

9. In what circumstances, or after what time period, should agents be required to review and update the SOI for a property?

Updates to the SOI for a property should occur within a reasonable timeframe and should not be required where there are no relevant market changes. **REINSW recommends** that SOIs should only be updated when a material change occurs, specifically, the availability of a new relevant comparable sale. For this purpose, **REINSW recommends** using unconditional exchange as the point of reference rather than settlement.

10. What impacts or administrative challenges do you anticipate could result from a requirement for agents to complete an SOI for each property sale? Please describe any specific impacts on time, resources or business processes.

REINSW is of the view that the requirement to complete an SOI increases an agent's administrative workload. To minimise this burden on agents, **REINSW recommends** streamlining the form to a single page and enabling digital completion.

REINSW also identifies significant challenges in applying the SOI framework to off-the-plan sales and redevelopment-driven amalgamation sites, as these transactions have no meaningful comparable sales and, instead, rely on uplift, FSR and redevelopment potential. For these particular categories, **REINSW recommends** the application of exemptions or alternative approaches.

In addition, REINSW is concerned about the requirement to amend online advertisements within one business day, as portal publishing delays, which are often beyond the agent's control, create disproportionate compliance risks given the high penalties attached to non-compliance.

11. With the SOI already operating in Victoria, what factors should be considered before it is a requirement for NSW agents?

REINSW recommends that Government lead extensive education campaigns for agents, vendors and buyers to ensure that they correctly understand pricing frameworks and disclosure obligations. Further, given the new terminology introduced by these reforms, this industry-wide education program should clarify distinctions between the SOI, ESP and other related terminology.

Strengthening advertising and representation rules

12. Should there be any exceptions to the proposed requirement that advertising must include a price or price range for the property? In what circumstances should this apply and why?

REINSW recommends that exceptions should apply in situations where providing a price guide is not realistic or would misrepresent the property. Unique, prestige and highly atypical properties can be extremely difficult to price meaningfully. Additionally, where a vendor insists on an unrealistically high price guide, a “no guide” option may be more appropriate to support a successful campaign.

REINSW emphasises that reforms should recognise that real estate transactions involve two different consumer groups: buyers and sellers. REINSW is concerned that overly rigid pricing requirements may inadvertently reduce buyer engagement or inhibit effective auction strategies, ultimately working against the interests of consumers on both sides of the transaction.

13. Should the legislation retain the existing prohibition on terms such as ‘offers over’ or ‘offers above’ or ‘plus/+’ in advertising?

REINSW supports retaining these prohibitions.

14. Should any other changes be made to how prices are advertised for residential properties?

REINSW does not have any comments in response to this question.

15. What risks should be considered in requiring an advertised price to be revised based on bids at an auction where the property has passed in or refused offers?

REINSW is of the view that requiring price guides to be revised no lower than a vendor bid placed at a passed in auction for the property is problematic. Vendor bids are often used as a strategic tool to try and flush out an offer at a certain level that meets the vendor’s expectation. The fact that an auction passes in on a vendor bid suggests that the market price is below that bid, otherwise someone would have bid above it. Requiring guides to match vendor bids would restrict the vendor’s ability to realign expectations with the market when it comes to pricing their property following a failed auction. Part of the value of a failed auction is to help educate a vendor about the likely realistic price for their property and often an adjustment in their expectation follows. Therefore, REINSW believes that it is unreasonable to force agents to quote at the level of a vendor bid. It ties the vendor to an unreasonable price that may be unrealistic for the property. If revision is required, **REINSW recommends** that it should be

based on the highest genuine bid from a real buyer, not a vendor bid, as this is price feedback from the market.

Increased record-keeping requirements

16. Are the examples set out above appropriate records that agents should be required to keep when estimating or revising an ESP?

REINSW considers these examples appropriate. However, **REINSW recommends** that where no clear comparable sales exist, file notes should be accepted and relied on as sufficient evidence supporting an agent's pricing rationale.

17. Are there any other records relating to estimating or revising an ESP that should be kept by agents? If so, what are they and why?

REINSW refers Government to its response to Question 16 above in addressing the response to this question.

18. What administrative challenges or costs do you anticipate as a result of the proposed requirement for agents to retain detailed records relating to the ESP and any revisions to it? Please describe any specific impacts on time, resources, business processes.

REINSW is concerned that the proposed record-keeping requirements may necessitate additional software subscriptions, technology upgrades and increased administrative resourcing for agencies. These changes will have cost implications, particularly for small and regional businesses that operate with limited staffing and tighter margins. To be workable in practice, **REINSW recommends** that any compliance system introduced by Government be straightforward, intuitive and capable of integrating seamlessly into existing industry workflows. Accordingly, **REINSW recommends** the development of practical, user-friendly solutions that support compliance without imposing disproportionate costs on agents.

Penalties for a breach of underquoting provisions

19. Is the use of a multiple of the commission for the sale of a residential property appropriate for a breach of sections 72A(7), 72C(1), 73(1), 73(2), 73(3), 73(4), 73A, 73B and 74(2)? Please explain why/not.

REINSW's position is that the proposed penalties in the Consultation Paper are too steep for a single breach. **REINSW recommends** that a tiered escalation model would be more appropriate and suggests the following approach for breaches of the provisions:

- First breach: loss of the commission or a standard penalty
- Second breach: double the amount of the commission
- Third breach: triple the amount of the commission
- Fourth breach and beyond: potential licence cancellation

This model is focused on distinguishing between genuine mistakes and deliberate misconduct, which REINSW believes is the appropriate approach for dealing with breaches. Ultimately,

penalties should reflect both the intent behind the conduct and the severity of its impact, ensuring that enforcement remains proportionate.

2.3 Disciplinary action by NSW Fair Trading Commissioner

20. Do you have any comments or concerns about the proposed additional disciplinary actions?

REINSW submits that disciplinary actions should not penalise genuine mistakes. Rather, enforcement should distinguish between inadvertent errors and systemic improper conduct. **REINSW recommends** that agencies and individual agents should bear fair responsibility, with education and remedial training forming part of corrective action where appropriate. Such enhanced education and training requirements would also help minimise inadvertent breaches and support sustained compliance across the sector.

21. Are the criteria prescribed in the proposed definition of an independent valuer under the new section 192(4) sufficient to guarantee the independence of the valuer? What amendments or additional criteria are needed? Please explain why.

REINSW recommends that the draft Bill make it clearer regarding who is responsible for paying for independent valuations as, without clear cost allocation, disputes and confusion may arise.

2.4 Penalties for serious misconduct

22. Do you have any comments or concerns about the proposed changes to the maximum penalty amounts in the draft Bill/Appendix A2?

REINSW does not have any comments in response to this question.

23. Do you have any comments or concerns about the proposed changes to the penalty notice amounts in Appendix A2?

REINSW supports penalty increases and is of the view that they are appropriate to reinforce the seriousness of misconduct and to minimise its occurrence.

2.5 Power to approve a standard form agency agreement

24. While the PSA Act already allows for the Regulation to prescribe standard form agency agreements, what risks do you see with standard form agreements being prescribed or approved by NSW Fair Trading?

REINSW opposes Government introducing prescribed or approved standard form agency agreements and consider the following to be risks associated with this proposal:

- Prescribing a standard form undermines the ability of agents and agencies to adapt agreements to suit diverse business models, client types and regional practices. It shifts too much control away from practitioners, who have the practical, legal and commercial experience to tailor contracts to specific situations.

- Government-issued standard forms may be overly simplistic or inadequately adapted to real-world complexities, potentially failing to protect the interests of both agents and consumers.
- Unlike industry-developed agreements, Government-approved forms may be slow to amend — especially if they are set via regulation or formal approval processes. As a result, agents may be required to use outdated, non-compliant documents that do not reflect current legal obligations or best practice.
- Requiring compliance with a new standard form would impose costs and confusion, particularly for agents currently using industry templates. Agents would need to update internal systems, retrain staff and potentially re-negotiate agreements — at their own cost. These disruptions will disproportionately affect agencies, particularly smaller ones or rural/regional agents.
- If the standard form is misaligned with practical realities, it could result in more disputes between agents and clients or more breaches of the Act due to misinterpretation. This exposes agents to unnecessary regulatory or reputational risk. Therefore, rather than improving compliance, the reform could paradoxically increase enforcement burdens on Government and legal and implementation costs for agents.
- If the use of an industry body's agency agreements is effectively displaced by a Government form, the value proposition of membership of that industry body is undermined and diminished. This could diminish the role of professional bodies in maintaining industry standards and educating agents. Over time, this could weaken industry cohesion and reduce professional standards, contrary to the Government's stated aims.

25. What types of issues should be covered in the standard form agreement?

REINSW is of the view that the Act already prescribes provisions that should be included in agency agreements, and it is these prescribed terms that should be included in all such agreements. REINSW queries the need for standard form agreements when the Act already mandates what should and shouldn't be included in agency agreements. If Government were to introduce standard form agreements, which **REINSW opposes**, **REINSW recommends** Government permit the inclusion of additional terms (should the parties desire) that do not conflict with, or contradict, the prescribed terms.

26. Where agents are using standard form agreements, which ones are commonly being used (e.g. REI forms, in-house templates, other industry-standard documents).

REINSW is aware that agents currently use agency agreements from REI Forms Live, ADL and EAC, and larger agencies or franchisees use their own in-house templates.

2.7 Commencement and transitional provisions

27. Is a 6-month period between the passing of the Bill and commencement of the changes to the underquoting provisions sufficient lead time for industry and the public? If not, what period would be more appropriate and why?

These are significant and substantial reforms, and industry will require time to prepare for them. **REINSW recommends** a 12-month transition period be introduced for the industry to prepare for the commencement of the underquoting reforms, provided that Government delivers clear guidance materials and adequate education during this period. Agents will require time to update their internal processes, train staff, adjust documentation and integrate any new regulatory requirements into their operational systems.

28. Do you see any other issues with the proposed commencement times for the changes in the Bill?

REINSW does not have any comments in response to this question.

29. What could NSW Fair Trading do to help make implementation of the reforms easier for the industry?

REINSW recommends that Government provide the following support measures to assist industry in implementing the reforms:

- Clear and accessible factsheets and guidance materials to assist agents in understanding their new obligations
- NSW Fair Trading should develop CPD content in conjunction with REINSW, and delivered by REINSW and other peak industry bodies. This way, NSW Fair Trading can ensure CPD content is legally accurate, regulator-endorsed and aligned with current legislative, agency practice and enforcement expectations. Delivery of such CPD by experienced industry bodies, such as REINSW, supports consistent, practical and industry-specific guidance for agents, reducing the risk of inconsistent interpretation and supports the promotion of professional standards and compliance across the sector
- Education webinars and training sessions to ensure consistent interpretation across the sector
- Public access to accurate and timely price/sales data to facilitate compliance with ESP and SOI requirements
- Centralised registers that consolidate essential and material information, reducing the need for agents to source comparable sales and sales data from multiple locations
- Streamlined, one page SOIs and streamlined processes that minimise administrative burden and promote efficient workflow integration
- Mandatory sale price disclosure upon unconditional exchange to ensure that current and meaningful data is available for pricing assessments.

Collectively, REINSW believes that these measures would provide agents with the tools, resources and clarity needed to adopt, and adapt to, the reforms smoothly and consistently, while supporting a regulatory environment that is transparent, practical and conducive to high professional standards.

30. Are there other matters NSW Fair Trading should consider for implementation of the reforms?

REINSW does not have any comments in response to this question.

31. Do you have any concerns or comments about the Transitional Provisions?

REINSW does not have any comments in response to this question other than a sufficient transition period of 12-months is required for such significant reforms.

3.1 Civil penalty framework

32. Do you have comments about a potential civil penalty framework under the PSA Act and Regulation?

REINSW submits that insufficient detail has been provided regarding the specific breaches to which a civil penalty framework would apply, making it difficult to assess the scope of the proposed reforms. Accordingly, **REINSW recommends** greater clarity be provided to enable industry to understand the circumstances in which civil penalties may be imposed and how they would interact with existing disciplinary pathways. Until this information is provided, REINSW is unable to offer meaningful and comprehensive comment on the proposal. Therefore, **REINSW recommends** Government release more detailed guidance or draft provisions to support informed consultation on this aspect of the framework.

3.2 Fines for breaches of the rules of conduct

33. Are the proposed increases for breaches by an agent of the rules of conduct appropriate? Please explain why.

Whilst **REINSW does not oppose** increasing penalties for individuals to \$4,400, **REINSW opposes** increasing the penalties for corporations to \$22,000.

REINSW is of the view that the *Property and Stock Agents Act 2002* (NSW) already places a clear and enforceable obligation on the licensee in charge (LIC) under section 32 to properly supervise the business and ensure that agents comply with the Act, including the rules of conduct. Where a breach occurs, such as a failure to act in the client's best interests or manage conflicts of interest appropriately, it should be addressed as a failure of supervision under section 32. Increasing the penalty for the corporation as a whole risks duplicating enforcement and unfairly penalising the broader business entity, particularly where the breach is the result of an individual agent's conduct. **REINSW recommends** that a more appropriate and targeted regulatory approach would be to continue using section 32 to hold LICs accountable for ensuring compliance within their business operations.

PART B

4. Strengthening CPD Framework

General

REINSW has responded to the following questions as set out in the Consultation Paper and has not introduced any other matter. However, REINSW makes the following comments that are pertinent to CPD generally:

- (a) The number of CPD providers currently approved by NSW Fair Trading that offer consistently cheap and fast CPD is concerning and results in the poor outcomes that industry is currently facing. The consequence is a “race to the bottom” approach of most approved CPD providers.
- (b) REINSW believes CPD is a critical part of consumer protection. Moreover, in times of significant legislative change, the case for high quality CPD is amplified.
- (c) REINSW supports the use of CPD to inform agents of new legislative instruments, address common compliance issues, evolving technology, the contemporary consumer’s expectations and to provide skills and tools to those who require them.
- (d) Despite REINSW’s views set out in paragraph (c) above, the majority of the current providers of CPD do not deliver the desired outcomes.
- (e) **REINSW recommends** that Government take the content and delivery of CPD more seriously by tightening its eligibility criteria and approval process, enforcing quality standards, and acting on and removing providers who do not meet the standards and compliance requirements set by NSW Fair Trading. REINSW is of the view that if these changes cannot be made, then Government should reconsider the objectives and intention of a CPD program.
- (f) In REINSW’s view, NSW Fair Trading and REINSW should be working together in the following ways:
 - (i) to determine:
 - A. the requirements of CPD each year to meet licensing requirements;
 - B. the content/annual topics of CPD to meet specific industry requirements;
 - C. the learning outcomes to be achieved;
 - D. the Training and Assessment Strategy (inclusive of delivery mode);
 - E. ongoing assessment requirements;
 - F. which topics require the exclusive delivery by REINSW due to their complexity, nature and significance to industry; and
 - G. the ongoing reporting requirements and methods of reporting;
 - (ii) to consult with REINSW on any reforms to the CPD requirements; and

- (iii) to include REINSW in the ongoing review process throughout the CPD year to ensure that topics and learning outcomes continue to align with industry needs.
- (g) In the interest of high quality and consistency, REINSW believes it should be the exclusive provider of CPD. If that is not palatable, then NSW Fair Trading can restrict the exclusivity to new legislative instruments and identified compliance weaknesses.
- (h) As offered previously to NSW Fair Trading, if appointed as the exclusive CPD provider then REINSW will deliver the training revenue-neutral and open up its accounts for inspection.

4.4.1 The regulatory framework for overseeing approved training providers

1. What standards do you expect from CPD providers? Are CPD providers currently meeting the standards expected of them from industry?

REINSW expects CPD providers to meet all relevant regulatory criteria and compliance obligations and to deliver training that is relevant, high quality and aligned with contemporary industry practice inclusive of any standards applicable to RTOs by the national regulator. However, notwithstanding these expectations, REINSW is concerned that a majority of currently approved CPD providers are delivering training that prioritises speed and cost over quality, resulting in inconsistent training, standards and outcomes that do not meet the needs of industry and REINSW believes that this needs to be stopped.

CPD must be interactive and engaging, allowing for discussion, breakout groups and the sharing of practical experience, rather than relying on presenter-led delivery or self-paced learning. Simply meeting prescribed hours or course outlines is insufficient if training lacks relevance or interactivity. For instance, much of the current CPD content is not relevant to the role of a buyers' agent such that their CPD requirements should be clearly distinguished from that of sales agents. Further, REINSW is of the view that genuine interactive delivery is essential to ensuring CPD contributes to meaningful capability uplift, rather than becoming a compliance only exercise (ie. ticking a box).

2. What additional matters should the regulations provide for around the approval of CPD providers? Please explain why.

REINSW supports stronger requirements around subject matter expertise for CPD providers. Providers should demonstrate that course content is designed by, or in partnership with, subject matter experts who have substantial and relevant industry experience. REINSW believes that without professional subject matter experts, a consequence is the current CPD market which is highly fragmented with poor quality and inconsistent education, as CPD providers prefer speed and price over quality.

As a minimum benchmark, **REINSW recommends** the following:

- (a)

- (b) a requirement be introduced for subject matter experts to have at least ten years' relevant experience, supported by reference checks, or a formal working partnership with a suitably experienced practitioner; and
- (c) a provision for the exclusive delivery of identified CPD content by REINSW where this is necessary to ensure high-quality, relevant and fit-for-purpose training, particularly in relation to new legislative instruments and areas of identified compliance weakness, where fragmented delivery by multiple providers has demonstrably failed to achieve desired outcomes and generated inconsistencies; and
- (d) CPD providers must be transparent with which subject matter experts they use and have them listed on their CPD website.

REINSW further recommends the development of CPD content specific to buyers' agents to address gaps in the current CPD framework (examples of current gaps are listed below in response to Question 21).

3. What further minimum eligibility requirements should be added to existing rules?

REINSW is concerned that there is a lack of clarity around the eligibility requirements for an approved provider and that what is listed on the Government's website [here](#) is insufficient. Accordingly, **REINSW recommends** that clearer eligibility requirements should apply to CPD providers, and that the requirements of an RTO to maintain its registration with ASQA should be used to determine eligibility. **REINSW further recommends** that individuals and corporations who have been subject to licence suspension, cancellation or investigation within the previous five years should not be permitted to deliver CPD training and that, where CPD providers are new entrants, their course content must be submitted to NSW Fair Trading for approval prior to delivery.

4. Are any existing eligibility requirements insufficient?

REINSW considers the existing eligibility requirements to be fundamentally inadequate and reflective of a broader failure in the current CPD provider model, noting that the key issues are addressed in response to Question 3.

However, REINSW reiterates its concern that the current eligibility requirements for CPD providers, including the requirements to register and to maintain approval as a provider, are insufficient and lack the necessary clarity and rigour.

In particular, REINSW considers that approval should not be granted on a broad or blanket basis across all CPD topics. CPD providers should only be approved to develop and deliver training in subject areas where they can demonstrably meet the relevant subject matter expertise requirements. Where a provider cannot evidence appropriate expertise for a particular topic area, approval should not be granted for that topic.

This approach would better ensure the integrity, relevance and quality of CPD offerings and avoid situations where providers deliver training outside their genuine areas of competence, undermining the objective of CPD as a mechanism for meaningful professional capability development rather than a compliance-only exercise.

5. Are the proposed changes to approved provider conditions proportionate to the risk of non-compliance?

REINSW is of the view that the effectiveness of the proposed changes to approved provider conditions depends on their enforcement. REINSW is concerned that, without meaningful compliance and enforcement activity by the regulator, revised provider conditions will have minimal impact. **REINSW recommends** that a key compliance mechanism would be the ability for NSW Fair Trading to declare licenses and certificates null and void where they were obtained after using a provider who failed to comply with their CPD and training obligations. REINSW believes that clear and strong consequences are essential to ensure compliance by providers and learners. Moreover, **REINSW recommends** the introduction of effective enforcement which will, in turn, support compliant providers by ensuring a level playing field and maintaining confidence in the approved provider framework.

REINSW further recommends that NSW Fair Trading provide clear guidance and, where appropriate, impose restrictions in relation to how CPD is advertised and represented by providers. Specifically, completion of a CPD course should not be promoted as automatically satisfying NSW Fair Trading requirements because the participant must also meet all prescribed assessment, participation and competency requirements. REINSW considers it important that licence and certificate holders clearly understand that attendance alone is insufficient and that compliance is contingent on successfully meeting assessment standards and learning outcomes.

6. What further changes would you make?

REINSW supports increased enforcement and transparency. Where a CPD provider is under investigation or found to be non-compliant, this should be publicly disclosed, including publication on the provider's website and displayed at the front of their business for all to see.

REINSW also considers that the approved provider conditions are currently missing an explicit and enforceable requirement that CPD be delivered to a consistently high-quality, relevant and fit-for-purpose standard. **REINSW recommends** that NSW Fair Trading address this gap by introducing a clear quality benchmark for CPD delivery, supported by a published matrix or framework that sets out the regulator's expectations of what constitutes quality training, including minimum standards for content relevance, interactivity, assessment, subject matter expertise and learning outcomes.

REINSW further recommends a "name and shame" approach for non-compliant providers to ensure consumers are properly informed and understand with whom they may be engaging. **REINSW also recommends** that clear processes be introduced for the removal of providers from the approved list, with defined pathways for suspension, revocation and reinstatement.

7. What other factors should be considered when developing the compliance and enforcement framework for approved providers?

REINSW recommends that penalties, approval conditions and revocation mechanisms should be clearly defined, transparent and consistently applied. Providers must have certainty about the circumstances in which approval may be suspended or revoked. Further, **REINSW**

recommends that Government make it clear that compliance and enforcement action may take the form of penalties *and/or* revocation of approval, particularly with respect to providers not meeting high quality education standards. Currently, the Consultation Paper lists the consequences (ie. penalties or revocation) as bullet points but does not clarify whether one or the other, or both, may apply.

8. If you are an approved provider, how much time do you require to develop a course?

REINSW submits that course development time depends on content complexity, the breadth of the topic and the timing of regulatory guidance. With respect to the latter, the content for a course cannot be developed unless Government has issued the course's learning outcomes. As a minimum, quality providers require at least six weeks from the date NSW Fair Trading releases the course descriptor and learning outcomes. For any quality provider, course development cannot reasonably commence prior to receipt of this information as shorter timeframes risk compromising course quality, accuracy and consistency across providers.

9. At what point in the CPD year should Fair Trading consult on next year's modules?

REINSW recommends that NSW Fair Trading commence consultation on CPD modules for the following CPD year by January of each calendar year, including consultation with REINSW, on the proposed topics and learning priorities for that year. REINSW's position is that early consultation is critical to allow approved providers sufficient time to design, develop and seek approval for compliant course content, and to ensure licence and certificate holders have clarity about forthcoming CPD requirements. REINSW is of the view that delayed consultation compresses development timeframes and increases the risk of inconsistent delivery and reduced training quality.

10. What changes are required to how Fair Trading administers the CPD framework to ensure it works effectively for licence holders and approved providers?

REINSW submits that consistency and certainty are critical. **REINSW recommends** NSW Fair Trading should maintain a single, stable CPD framework and avoid year-to-year changes to required hours or delivery modes. CPD hours and delivery structures should remain consistent and aligned with legislative settings and not change as regularly as they do, as this creates confusion and unintentional non-compliances. For the reasons set out under the "General" heading above, **REINSW further recommends** that NSW Fair Trading consult with relevant industry bodies, including REINSW, when considering any proposed changes to CPD hours, delivery modes or administrative requirements, as REINSW is well placed to provide practical, industry-based input to support consistency, quality and effective implementation. REINSW is of the view that frequent changes to CPD hours, delivery modes or administrative requirements undermine certainty for licence holders and providers and can create unnecessary compliance risk and inefficiency across the industry.

11. In the 2025-26 CPD year, Fair Trading required providers to submit their course content for the rental reforms module for Fair Trading to review and sign off. Were there any benefits and issues you experienced with this process?

REINSW supports the requirement for NSW Fair Trading to review and sign off CPD course content prior to delivery, noting that this process was recommended by REINSW. REINSW is of the view that pre-approval promotes consistency, improves training quality and reduces the risk of non-compliant or misleading content being delivered to licence and certificate holders.

While this approach may require additional resourcing by NSW Fair Trading, REINSW considers that the benefits to industry confidence and regulatory consistency far outweigh the administrative burden for NSW Fair Trading.

REINSW would be willing to assist NSW Fair Trading with the review of CPD course content and, for this purpose, **REINSW recommends** the establishment of an independent review committee comprised of suitably experienced practitioners drawn from REINSW's Chapters, to provide subject matter expertise and practical industry input to support the content approval process. This recommendation is made without prejudice to REINSW's broader position that, in the interests of quality and consistency, CPD delivery (particularly for new legislative instruments and identified compliance weaknesses) should be restricted to industry peak bodies.

12. Will the proposed objectives improve the effectiveness of the CPD framework?

REINSW is of the view that the proposed objectives may improve the effectiveness of the CPD framework but only if they are supported by meaningful compliance and enforcement activity as well as NSW Fair Trading ensuring that CPD providers deliver high quality, consistent and relevant training and course content. This outcome is best supported through clear quality standards for CPD providers, informed by the expertise of experienced industry bodies such as REINSW, particularly in relation to more complex topics. For the reasons set out under the heading "General" above, REINSW considers that this is best achieved where CPD relating to more complex or high-risk topics (particularly new legislative instruments and areas of identified compliance weakness) is developed and informed by the expertise of peak industry bodies, such as REINSW, and delivered by them in accordance with robust, regulator-approved quality standards, to ensure consistency, quality and practical relevance.

Objectives alone are insufficient to drive improved outcomes if non-compliance is not actively monitored and addressed. Therefore, **REINSW recommends** that enforcement mechanisms must operate in parallel with any revised objectives to ensure they achieve their intended purpose. Without stringent, regular and consistent enforcement, REINSW is concerned that CPD may be perceived as a procedural requirement rather than a meaningful professional obligation designed to educate and improve professionalism.

13. What other measures should be considered?

REINSW recommends that NSW Fair Trading consider additional measures to strengthen oversight and relevance of CPD. These mechanisms include to monitor complaint trends and market sentiment to inform future CPD content and, for the reasons set out under the heading "General" above, to ensure that CPD topics, specifically those arising from new legislative instruments or identified compliance weaknesses, are subject to heightened quality controls, including consideration of restricted or centralised delivery models where appropriate.

REINSW also recommends the introduction of a requirement for licence and certificate holders to upload evidence of CPD completion (for instance, completion certificates), supported by increased auditing activity by NSW Fair Trading. These measures would assist in ensuring CPD obligations are met in practice and that training remains responsive to emerging industry risks and issues.

14. Do you support the introduction of consistent rules for how interactive online training is delivered?

REINSW does not support the use of self-paced online learning as a delivery mode for CPD, as this approach lacks genuine interactivity and does not facilitate meaningful engagement, education, discussion or practical skills development. However, where online training is delivered in a genuinely interactive format (ie. not self-paced online learning), **REINSW does not oppose** the introduction of consistent rules governing interactive online CPD delivery because consistency can support improved training quality. However, such rules must be supported by active compliance monitoring and enforcement, with the focus on acknowledging the role that technology plays in improving accessibility. REINSW is aware, however, that rapid technological change presents challenges for both providers and regulators. Therefore, **REINSW recommends** that any rules introduced should focus on maintaining genuine interactivity and learning outcomes, rather than prescribing rigid delivery models that may quickly become outdated or obsolete.

15. What should the rules look like?

REINSW recommends the following:

- (a) that providers should be required to obtain approval from NSW Fair Trading to deliver interactive online training and demonstrate how interactivity will be achieved, including participant identification checks, and that approval should not be granted to providers whose training models prioritise speed or cost at the expense of quality.
- (b) that, prior to being approved, providers be required to demonstrate a minimum of 12 months' experience in delivering training and assessment in the real estate sector and provide evidence to NSW Fair Trading of their training and assessment methodologies, including how learning outcomes are assessed and competency is verified;
- (c) that assessment standards should be strengthened through a mix of randomly generated multiple-choice questions as well as short-answer components; and
- (d) that there be a requirement for a high pass threshold, such as 90%, with limited re-attempts (say, three) before having to re-enrol and complete the assessment again.

The above recommendations should introduce additional requirements to the existing rules, which should not be weakened.

16. Do you support NSW Fair Trading introducing an exemption framework?

REINSW opposes an exemption framework for CPD obligations, as exemptions risk contributing to declining professional standards, inconsistent practices across the industry and agents operating with outdated legislative, regulatory or professional knowledge.

REINSW is of the view that CPD exists to ensure licence and certificate holders remain up to date with legislative, regulatory and professional obligations. An exemption framework would undermine the purpose and intent of CPD. Further, **REINSW recommends** that licence and certificate holders who leave the industry for a period of time but retain their licence or certificate (as applicable) should always remain subject to CPD requirements, which must be actively enforced. This is similar to how the legal profession's CPD framework operates, specifically, where a person may not practice law but maintains their practising certificate by completing their CPD requirements.

17. What circumstances for granting exemptions should be considered as part of the exemption framework?

As abovementioned, **REINSW opposes** the introduction of an exemption framework for CPD obligations. REINSW is of the view that CPD exists to ensure licence and certificate holders remain current with legislative, regulatory and professional requirements, particularly in an environment of frequent reform. Exemptions risk undermining the purpose of CPD and creating inconsistencies in professional standards. Therefore, **REINSW recommends** that CPD obligations should apply uniformly across industry and be actively enforced by NSW Fair Trading.

4.4.2 CPD requirements for licensees, including enforcement tools for non-compliance

18. Are the proposed penalty amounts for non-compliance with CPD conditions by licence or certificate holders and CPD providers appropriate?

REINSW recommends Government to clarify whether the penalties stated in the Consultation Paper apply per person, per occurrence or per offence, whether they attach to the licensee-in-charge and whether they fall within section 32 of the *Property and Stock Agents Act 2002* (NSW) in that there was a failure to properly supervise the business. Clear guidance on CPD-related penalties is necessary as REINSW believes that penalties should be proportionate, clearly articulated and consistently applied to avoid uncertainty and unintended non-compliance.

19. What factors should Fair Trading consider when implementing the education notices?

REINSW recommends the following with respect to education notices:

- (a) that, if NSW Fair Trading proposes to identify in the education notices specific relevant education or training to address competency gaps, then NSW Fair Trading must develop a prescribed list of providers (who are approved industry bodies) who deliver such education or training so that consumers know what is available, and where, in order to discharge the requirements in the education notices;

- (b) that these providers be subject to stringent approval requirements and be reviewed by NSW Fair Trading at least annually
- (c) that education notices specify evidence requirements (specifically, how to prove completion of the mandatory education) and include a staged process, allowing 21 days to book training before escalation to penalty notices; and
- (d) that where compliance is not achieved as required by the education notices, NSW Fair Trading should have the power to mandate enrolment or impose penalties.

20. Do you support additional CPD obligations for new class 1 licence holders?

REINSW supports the introduction of additional CPD obligations for new class 1 licence holders but also for existing licence holders who have come into New South Wales under the Automatic Mutual Recognition scheme and were granted their licence in their home state or territory (**AMR Licensees**). New class 1 licence holders and AMR Licensees typically need to know a significantly greater amount of NSW legislation, requirements, processes and procedures and face higher compliance and supervision risks, making targeted additional CPD appropriate for these types of licence holders. REINSW is of the view that enhanced early-career training, and additional training for AMR Licensees, can assist in addressing capability gaps, improving supervision outcomes and strengthening professional standards at a critical stage of a licence holder's development.

21. What should be covered in these additional modules?

REINSW recommends that additional CPD modules for new Class 1 Licence holders and AMR Licensees cover, first and foremost, supervision obligations. **REINSW also recommends** the development of a structured bridging course to ensure licence holders have a clear understanding of their expanded responsibilities and compliance obligations before operating independently. **REINSW further recommends** that these modules place greater emphasis on mentoring, coaching and broader professional development, including career pathways, employment obligations, staff retention and workplace standards, to support sustainable capability development and effective leadership within agencies.

REINSW considers there to be a gap in the content of the CPP41419 – Certificate IV in Real Estate Practice with respect to the content relevant to certain types of agents. For example, it fails to address the legislative requirements and processes relevant to acting as a buyers' agent, or business brokers. Accordingly, **REINSW recommends** that course content should address identified skill gaps, including but not limited to:

- service offerings, pricing and processes;
- agency agreements;
- client management such as onboarding, project management, empathy, client care and advice;
- agent relationships such as dialogue, professional engagement with other agents, the sales process and respectful dealings;

- due diligence processes such as location and property specific due diligence;
- negotiation strategy and execution, pricing and the exchange process;
- auctions including the process, legislation, case law, client authorities, bidding and compliance;
- property data analysis, reporting and appropriateness to client brief;
- property evaluation, including building types, common faults and asset quality;
- mentoring and coaching approaches to support junior staff and succession planning;
- the importance of high-quality education and continuing professional development as a core professional obligation;
- human resources and employment matters, including basic employment obligations and workplace standards; and
- the foundational requirements for operating a real estate business, including governance, risk management and compliance systems.

22. The proposed additional obligations would be delivered exclusively by industry peak bodies. What factors should be considered before this is formalised?

REINSW supports the exclusive delivery of additional CPD obligations by industry peak bodies, particularly for new legislative instruments and areas of identified compliance weakness, as this recognises their sector expertise, governance frameworks and ability to deliver consistent, high-quality training at scale. However, delivery of such training must be subject to appropriate safeguards. REINSW is of the view that the industry peak bodies must have the resourcing, scalability, capability and ability to deliver consistent, high-quality training across the sector. **REINSW recommends** that such training must be developed by qualified subject matter experts with current, practical industry experience and informed by real-world practice. As previously offered to NSW Fair Trading, REINSW would be prepared to deliver such exclusive training on a revenue-neutral basis and to open its accounts for inspection to provide transparency and assurance to Government.

23. What changes could be progressed to the CPD framework to help retain existing staff, attract new talent and ensure that CPD aligns with broader obligations, including accessibility of training for all licence holders?

REINSW submits that CPD should evolve alongside technology, with regular review of delivery criteria. **REINSW recommends** that greater emphasis should be placed on mentoring, coaching and broader professional development topics, including employment obligations, staff retention and workplace standards.

REINSW also notes that qualification and licensing settings, including restrictions imposed under the *Property and Stock Agents (Qualifications) Order 2019 (NSW) (Qualifications Order)*, interact with CPD and workforce retention outcomes and so **REINSW recommends** the Qualifications Order be reviewed to ensure it remains appropriate and consistent.

24. Do you consider that enhanced CPD delivery will address concerns around licence holder competency?

REINSW is of the view that enhanced CPD delivery may address concerns around licence holder competency to some extent, provided that training is relevant, practical and delivered to a consistently high standard. **REINSW emphasises** that improved CPD outcomes are dependent on effective enforcement, high-quality course content and meaningful assessment, and should be viewed as one component of a broader capability uplift framework rather than a standalone solution.

25. What other changes could be made to NSW's CPD framework to support licence holder capability uplift?

REINSW refers NSW Fair Trading to its response to Question 24.

5. Other Comments

REINSW also takes this opportunity to comment on the Qualifications Order and, in particular, its concerns that agents with a real estate restriction condition cannot practice business agent functions. REINSW refers to the letter from the NSW Fair Trading Commissioner to REINSW dated 28 March 2025 (**enclosed** at Annexure A), confirming that NSW Fair Trading has reviewed the issue and intends to address it through legislative reform. **REINSW proposes** that now is the time for such legislative reform.

Accordingly, **REINSW recommends** that amendments be made to the Qualifications Order to remove the restriction that applies to certain class 1 licence holders who obtained their qualification prior to March 2020 and which prohibits them from carrying out business agent functions. For class 1 licensees who obtained their qualification after March 2020, there is no such restriction to their real estate licence.

REINSW is of the view that this restriction is not appropriate, creates unnecessary inconsistency between licence holders performing the same functions and arises simply because of a timing issue with the grant of their licence. Therefore, **REINSW recommends** the Government amend the Qualifications Order to remove this restriction and ensure that all class 1 licence holders are subject to a consistent and contemporary qualification framework that permits them to sell and lease businesses in addition to real estate.

6. Conclusion

REINSW has considered the Consultation Paper, draft Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Bill 2026, draft Comparable Sales Requirements and the draft Statement of Information. It has provided its comments above, aiming to provide input on as many pertinent aspects of the Consultation Paper and draft documents as possible.

In relation to the proposed reforms to the CPD framework, REINSW has focused its response on ensuring that CPD remains relevant, high quality and fit-for-purpose, while being supported by effective compliance and enforcement mechanisms to achieve objectives. REINSW's

comments emphasise the importance of practical, interactive training aligned with real-world agency practice, appropriate oversight of CPD providers and a framework that supports capability uplift across the profession without imposing unnecessary administrative burden on licence holders or providers.

REINSW reiterates its overarching view that incremental reform alone will not address the systemic shortcomings of the current CPD framework. The highly competitive CPD provider market has driven a race to the bottom in price and delivery, undermining the consumer protection purpose of CPD. In REINSW's view, Government must either take the content and delivery of CPD more seriously or reconsider the effectiveness of having an ongoing CPD program.

Please note that REINSW's resources are very limited particularly at this time of the year. REINSW is concerned that proper consultation is inhibited because Government has issued the Consultation Paper at the busiest time for industry (namely, in the lead up to Christmas and the new year break). It is no surprise that staff are busy wrapping up work for the year and are taking extended leave over the Christmas/New Year break. This makes the consultation period unrealistic and too tight, particularly given the importance of getting the underquoting and CPD frameworks right. With this in mind, REINSW does not have the capacity to undertake a thorough review of the proposed reforms and is unable to exhaustively investigate all potential issues in this submission. Nonetheless, REINSW has identified several matters that it believes will cause significant consumer detriment, some of which appear above.

REINSW appreciates the opportunity to provide this submission and would be pleased to discuss it further, if required.

Yours faithfully



Tim McKibbin
Chief Executive Officer



