

Ms Allissa Shortland
Acting Senior Project Officer, Industry Support
Fair Trading Specialist Services
Department of Finance, Services and Innovation

By Email: allissa.shortland@finance.nsw.gov.au

31 July 2018

Dear Ms Shortland

REINSW Submission - Proposed Amendment to the *Property, Stock and Business Agents Act 2002 (NSW)*

This Submission has been prepared by The Real Estate Institute of New South Wales Limited (**REINSW**) and is in response to your e-mail on 24 July 2018 in relation to the proposed amendment to section 205 of the *Property, Stock and Business Agents Act 2002 (NSW)* (**PSBA Act**).

REINSW understands from your e-mail that the proposed amendment to section 205 of the PSBA Act is as follows:

Insert "or which is open for inspection in advance of, or in preparation for, such an auction" after "conducted" in section 205(4)(b),

(being, the **Proposed Amendment**).

REINSW appreciates the opportunity to comment on this legislative change. 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.

REINSW agrees, in principle, with the intention of the Proposed Amendment but is of the view that it needs amending to limit the authorised officer's right of access. The Proposed Amendment appears to allow the authorised officer to enter a residential premises at any time in which it is open for inspection prior to the auction day. REINSW recommends that this right of access should be limited to the open for inspection on the actual auction day.

Section 205 of the PSBA Act currently permits the authorised officer to access the residential premises only when an auction commences (that is, "is being conducted"). REINSW appreciates that this may prevent the authorised officer from carrying out their investigation or enforcement activities (for instance, they would be prohibited from the bidder registration process, which occurs prior to the auction being conducted).

Accordingly, REINSW does not oppose the Proposed Amendment if the authorised officer's access right was limited to the day of the auction. However, REINSW opposes the Proposed Amendment if they were permitted to access the relevant part of the premises when it is open for any inspection during the marketing period (which could be days or weeks prior to the auction).

Again, REINSW appreciates the opportunity to make this Submission and would be happy to discuss any of it with you should you feel the need.

Yours faithfully



Tim McKibbin
Chief Executive Officer