

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

## **Submission**

### **Buyers' Agents under the *Property and Stock Agents Act 2002 (NSW)* and *Property and Stock Agents Regulation 2014 (NSW)***

**12 August 2020**

**To:** Lachlan Malloch  
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Better Regulation Division  
Department of Customer Service

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## 1. Introduction

This Submission has been prepared by The Real Estate Institute of New South Wales Limited (**REINSW**) upon its own initiative and is intended to highlight several key areas of consideration that concern buyers' agents in New South Wales.

REINSW is the largest professional association of real estate agents and other property professionals in New South Wales. REINSW represents 7,500 individual members and seeks to promote their interests 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.

This Submission has been prepared with the assistance of the REINSW Buyers' Agents Chapter Committee. These members are licenced real estate professionals with experience and expertise in their field. Accordingly, the REINSW Buyers' Agents Committee has taken the initiative to comment on and provide recommendations to NSW Fair Trading on the following areas of consideration:

- (a) creating a clear definition of a 'buyers' agent' in the *Property and Stock Agents Act 2002* (NSW) (**Act**);
- (b) creating an accreditation pathway for buyers' agents to prove their competency; and
- (c) amend the *Property and Stock Agents Regulation 2014* (NSW) (**Regulation**) to allow buyers' agents to receive referral fees.

Although NSW Fair Trading has not invited the public to comment on these matters, REINSW feels it is imperative for this Submission to be brought to the attention of NSW Fair Trading. By doing so, REINSW hopes that NSW Fair Trading will take its comments and recommendations on board and implement them to further the betterment of the buyers' agency profession and the property industry generally.

## 2. Creating a Clear Definition of a Buyer's Agent

### 2.1 REINSW Proposal

REINSW is of the view that a clear definition of a "buyer's agent" is required in the definitions section of the Act, mainly to eliminate consumer confusion and misunderstanding in respect of a buyers' agent's role in the market.

### 2.2 Background

The Act, Regulation and Real Estate Industry Award 2010 (**Award**) all had their genesis in an era when real estate agents were sellers' agents and where buyers' agents were not as significant or prevalent in the market as they are today. The current legislation fails to reflect the modern reality of the increased use of buyers' agents and fails to accurately

identify the role and purpose of such agent. One of the clearest examples that generated this confusion is the inappropriate use of the word “salesperson” that has recently been omitted from the Act (as a result of the industry reforms on 23 March 2020) because the expression was used to describe licensees who acted for both buyers and sellers.

Buyers’ agents are now formally recognised in the 2014, 2016, 2018 and 2019 editions of the standard form Contract for the Sale and Purchase of Land. They are recognised as key stakeholders having a designated sector within the industry, and their prominence and significance requires them to formally engage with other associated industry bodies, including The Law Society of New South Wales and other key stakeholders. Despite this, consumers remain very confused both as to the existence of, and the role performed by, buyers’ agents.

In addition to not reflecting the now established role played by buyers’ agents, the Act and Regulation contribute to further confusion by failing to distinguish between specialised buyers’ agents and those sellers’ agents who may act for buyers, on occasion, without the necessary experience and qualification of a specialised buyers’ agent.

Such confusion is not only undesirable on policy grounds but, importantly, it is also prejudicial to consumers who, because of that confusion, may buy property unaware of the value of a buyers’ agent and risk losing the benefit that they add to the buying process. Without constituting an exhaustive list, those benefits include:

- (a) allowing consumers to work with a specialised professional that is trained and licensed, and bound by the professional rules of conduct (including those specific to buyers’ agents);
- (b) providing consumers with a broader choice of properties not limited to those listed by a seller’s agent or associates of that seller’s agent – noting that buyers’ agents have access to databases and information not readily available to the public (including properties that are not promoted in the market);
- (c) consumers are able to:
  - (i) have independent representation untainted by any actual or apparent conflict of interests;
  - (ii) receive specialist due diligence skills to identify a variety of economic, regulatory, planning and environmental risks;
  - (iii) receive the benefit of strong negotiation skills to develop auction and private treaty sales and industry awareness of the motivation and strategies of vendors and sellers’ agents;
  - (iv) receive guidance and advice on industry standards;
  - (v) receive local property market knowledge where buyers’ agents can find and shortlist properties meeting consumers’ search criteria, also assisting them in saving time, stress and money;
  - (vi) receive objective information and assessments of the positive and negative aspects of a property, in line with the Act and Regulation;

- (vii) have an independent assessment of the purchase price compared to the selling agent's listing price, noting that buyers' agents research properties to determine a fair price;
- (viii) be kept informed of each stage of the negotiation of the purchase price as required by the rules of conduct; and
- (ix) obtain the best possible purchase price, without the buyers' agent breaching standards of ethical behaviour or engaging in conduct that is contrary to good agency practice.

## 2.3 Proposed Amendments

In order to resolve the issues outlined above, REINSW proposes that the following amendments be implemented to create a clear understanding of the role, and accreditation required, of 'buyers' agents' in the Act and Regulation:

- (1) Each reference in the Act and the Regulation to "buyer's agent" be checked by the drafters to determine whether the context requires a change in reference to "buyers' agent".
- (2) The definition of "*buyer's agent*" be removed from section 47(3) of the Act.
- (3) The following definition of "*buyer's agent*" be included in section 3(1) of the Act:

**"buyer's agent"** means a real estate agent or an assistant real estate agent who in any particular transaction:

- (a) acts only for a buyer of land under a buyers' agency agreement; and
- (b) is accredited as a buyer's agent under this Act,

and includes (without limitation) a buyer's advocate, buyer's representative and other similar class of persons."

- (4) The definition of '*buyer's agent*' in clause 3(1) of the Regulation be replaced by the following:

**"buyer's agent"** means a real estate agent or an assistant real estate agent who in any particular transaction:

- (a) acts only for a buyer of land under a buyers' agency agreement; and
- (b) is accredited as a buyer's agent under the Act,

and includes (without limitation) a buyer's advocate, buyer's representative and other similar class of persons."

- (5) The following be inserted as a new clause 9G in Part 1, Schedule 2 to the Regulation:

**Clause 9G - Accreditation of Buyers' Agent**

*A real estate agent or assistant real estate agent must not act as a buyer's agent without being accredited as a buyer's agent under the Act.*

(6) The following be inserted as a new section 21A of the Act:

**Section 21A – Special Condition Requiring Buyers' Agents to be Accredited**

- (1) *Every real estate agent's licence is subject to the condition that the holder of the licence must not act as a buyer's agent unless the licensee is accredited as a buyer's agent under this section.*
- (2) *The Secretary may accredit the holder of a real estate agent's licence as a buyer's agent if the Secretary is satisfied that the holder has such qualifications in connection with the functions of a buyer's agent as the Secretary may approve from time to time by order published on the NSW legislation website.*
- (3) *Without limiting the Secretary's power to approve qualifications, the Secretary may approve qualifications by reference to any one or more of the following—*
  - (a) *the completion of a course of study,*
  - (b) *the completion of a period of training in a particular activity, and*
  - (c) *the attainment of a standard of competency in a particular activity.*

(7) Section 47(1) be amended to read as follows:

*"A seller's agent acting on the sale of land and a buyers' agent acting on the purchase of land must disclose the following to the person for whom the agent is acting (the client) and (in addition, in the case of a seller's agent) any prospective buyer of the land..."*

(8) The Act, Regulation and Award be amended mutatis mutandis to reflect the suggested amendments set out in paragraphs 2.3(1)-(7) above.

## **2.4 Purpose of the Amendments**

REINSW acknowledges that there are a number of issues that arise as a result of the ambiguous manner in which buyers' agents are currently defined in the Act and Regulation. Accordingly, the purpose of these amendments will be to clarify the definition and remove the confusion that presently surrounds it. This will be achieved by more accurately aligning the wording of the legislation to reflect what currently occurs in the industry. As a result, confusing industry terminology (for instance, an "exclusive buyers' agent") will disappear and cease to create uncertainty within the world of real estate.

In addition to resolving these issues, the amendments will also protect consumers by:

- clearly defining what buyers' agents do per se to distinguish themselves from sellers' agents who, from time to time, act for buyers but are remunerated, whether directly or indirectly, by the relevant sellers;
- helping prospective buyers/consumers make an informed choice when identifying which professional will best meet their needs and, in particular, when deciding whether or not to retain a buyers' agent;
- improving the reputation of real estate agents generally;
- eliminating potential conflicts of interest which could arise, or be seen to arise, where sellers' agents, from time to time, act for buyers but are remunerated, whether directly or indirectly, by sellers;
- ensuring that selling agents who, from time to time, act for buyers are only permitted to do so after completing the same training and higher education standards as that which is required for buyers' agents;
- ensuring that sellers' agents who, from time to time, act for buyers are both obliged and competent to find properties other than those which their associates may list, and to undertake due diligence for their buyer client's with respect to a variety of economic, regulatory and environmental risks; and
- helping the real estate industry transition from being an industry to a respected and reputable profession.

### **3. Creating a Pathway for the Accreditation of Buyers' Agents**

REINSW believes that the role of a buyers' agent has evolved over time to the extent that there is now a need for buyers' agents to be accredited and recognised as specialists in their field, much the same way as auctioneers are accredited as specialists in the real estate industry.

Buyers Agency is a specific scope of practice that is rapidly gaining traction and wider community acceptance. It is imperative that buyers' agents are appropriately trained and meet specific qualification standards as there is a different skill set involved with delivering their services.

REINSW is of the view that it is in consumers' best interests to only have agents who have done the appropriate training carry out the role of a buyers' agent. There is currently no specific accreditation for this area of expertise. Considering that buyers' agents fulfil a unique role as specialists within the real estate industry, REINSW proposes that buyers' agents should be required to undergo specific training to obtain accreditation and be recognised for their distinctive expertise. To this end, REINSW proposes that the legislative changes set out in section 2.3 of this Submission be adopted and that it be made mandatory in the new Certificate IV in Real Estate Practice for agents who wish to practice as buyers' agents to not only complete CPPREP4101 *Appraise property for sale or lease* as a prerequisite but also the following units of competency as outlined in the **enclosed** Training Package released on 21 March 2019:

- (a) CPPREP4171 *Represent buyer in sales process;*
- (b) CPPREP4172 *Develop and promote property industry knowledge – buyers’ agent;*  
and
- (c) CPPREP4173 *Complete purchase of property as buyers’ agent.*

The units of competency in paragraphs 3(a)-(c) above are optional at this stage but REINSW insists that they be mandatory if an agent wishes to perform the role of a buyers’ agent.

REINSW confirms that this recommendation does not aim to exclude licensed agents from delivering buyers’ agency services, but it will require agents who wish to provide such services to have completed the relevant units of competency, have practical experience and decide what scope of practice they wish to promote and pursue.

REINSW suggests that to receive accreditation a buyers’ agent will be required to have completed at least 2 years of relevant practical work experience. This will ensure that sellers’ agents who, from time to time, act for buyers are only permitted to do so after completing the same training and higher education standards required of buyers’ agents.

Requiring buyers’ agents to obtain accreditation will enable consumers to more easily identify which agent has the best experience and expertise to deliver the services they require. Thus, not only will this change guarantee that buyers’ agents are recognised for their unique specialities, but that consumer’s accessibility to them and their services will be more readily available.

REINSW recognises that the process whereby auctioneers obtain accreditation has been finessed over time. In consideration of this, REINSW is willing to work closely with NSW Fair Trading, the REINSW Buyers’ Agents Chapter Committee, and the relevant industry experts and stakeholders to ensure that the most appropriate accreditation pathway is formulated in the best interest of consumers.

## **4.Improved Rules of Conduct - Referral Fees**

### **4.1 Background**

It is often perceived that there is “good synergy” in both selling agents and buyers’ agents working together to assist their clients in a professional manner and such a relationship is often beneficial to vendors and purchasers who may often find it difficult to find an appropriate agent. Who better to recommend a successful and professional agent than someone already working in the industry? There are incentives for agents in doing so, including satisfied clients, recurring business and a monetary incentive to improve the market by way of referral fees.

All agents have a duty to act in the best interests of their clients at all times unless it would be contrary to the Act or Regulation or otherwise unlawful to do so. With that in mind, REINSW finds it difficult to understand how a buyers’ agent who refers a client to a selling agent (for example, with properties for sale in suburbs of interest to the buyer)

would not be acting in their client's best interest by making that referral and, to compensate, receiving a fee.

## **4.2 Scenarios in which a Buyers' Agent may receive a Referral Fee**

The REINSW Buyers' Agents Chapter Committee has discussed at their meetings four scenarios in which buyers' agents could be entitled to receive a referral fee. However, two of these scenarios currently prohibit the receipt of such fees due to the Act and Regulation.

REINSW hopes to highlight for the benefit of NSW Fair Trading how these two scenarios, whilst prohibited, do not pose any real risk to threatening a buyers' agents' duty to avoid conflicts of interest, and respectfully recommends that the legislation be amended to permit buyers' agents to receive referral fees in these circumstances (described in more detail below).

### **(a) Scenario 1**

#### **Selling Agent makes referral to Buyers' Agent – No agency agreement in place**

A selling agent from Ray White (**Selling Agent**) wishes to refer a potential lead (**Buyer**) to a buyers' agent from ABC Property Finders (**Buyers' Agent**). The Buyer has had trouble finding time to search for property and does not know the market in the area in which they are buying. In the vast majority of cases, referrals would be made to buyers' agents that assist sales agents' clients outside of the local area in which the sales agents operate. The Selling Agent is NOT acting as exclusive sales agent for the Buyer and the Buyer is simply someone that the Selling Agent has met via their networking activities.

In this scenario, REINSW is of the view that a conflict of interest is very unlikely as there is no exclusive sales agency agreement in place between the Selling Agent and the Buyer so the Selling Agent is not acting for the Buyer in breach of clause 7 of Schedule 2 to the Regulation. In this scenario, clause 7 is not applicable; rather the Selling Agent is referring a potential prospect to a buyers' agent who is willing to pay a fee for the referral. However, in the instance that the Buyers' Agent ended up recommending a property listed by the Selling Agent, the Selling Agent would be unable to accept a referral fee because they are already getting paid by the vendor.

The issue of inducement does not appear applicable here as the Selling Agent has only identified an opportunity to refer a lead. The Selling Agent is not "inducing" the Buyer ("*any other person*") to sign up by paying the Buyer a fee. Instead, the Buyers' Agent is willing to pay a fee if the Selling Agent wishes to refer a prospect. Since an "inducement" is a pledge or promise that causes an individual to enter into a particular agreement, in this scenario, the Selling Agent is simply giving the contact details of the Buyers' Agent to a prospective lead and leaves it to the Buyer to make contact with the Buyers' Agent. There is no promise or pledge in these circumstances and, therefore, no inducement.

## (b) Scenario 2

### **Selling Agent makes referral to Buyers' Agent – Agency agreement in place**

A selling agent from Ray White (**Selling Agent**) wishes to refer their client, Bob Bashfield (**Buyer**) to a buyers' agent from ABC Property Finders (**Buyers' Agent**). The Selling Agent has listed the Buyer's house for sale under an exclusive sales agency agreement and is running an associated active marketing campaign.

In this scenario, REINSW is of the view that the chance of a conflict of interest arising is unlikely. In the event the Buyer enters into a buyers' agency agreement with the Buyers' Agent and purchases one of the Selling Agent's listed properties, the Selling Agent would not be entitled to any referral fee from the Buyers' Agent.

## (c) Scenario 3

### **Buyers' Agent makes referral to Selling Agent – No agency agreement in place**

A buyers' agent from ABC Property Finders (**Buyers' Agent**) wishes to refer a buyer, Wendy Wu (**Buyer**), to a selling agent from Ray White (**Selling Agent**). The Buyer wants to sell their house. The Buyers' Agent does not sell property and the Buyer has asked the Buyers' Agent if they know of any good sales agents in the area.

The Buyers' Agent is NOT currently acting as an exclusive buyers' agent for the Buyer – they are simply someone whom the Buyers' Agent has met via their own networking activities.

REINSW is of the view that, in this scenario, issues regarding conflicts of interest are not applicable as the Buyers' Agent is simply referring a potential prospect to the Selling Agent.

Clause 9F of Schedule 2 to the Regulation does not appear applicable given that the Buyer is not under an exclusive buyers' agency agreement and the Buyers' Agent is not acting for the Buyer. Accordingly, there is no breach of clause 9F of Schedule 2 to the Regulation.

Similarly, it is unlikely there will be any issues of inducement because all that has happened is that the Buyers' Agent has identified an opportunity to refer a lead. In this case, they are not "inducing" the Buyer ("*any other person*") to sign up to an agency agreement by paying the Buyer a fee. Instead, the Selling Agent is simply willing to pay a referral fee to the Buyers' Agent for referring a potential client. In this scenario, the Buyers' Agent is giving the contact details of the Selling Agent to the Buyer and leaves it to the Buyer to contact the Selling Agent. They are not promising or pledging anything to the Buyer and, therefore, REINSW is of the view that an inducement has not occurred.

#### **(d) Scenario 4**

### **Buyers' Agent makes referral to Selling Agent – Agency agreement in place**

In this scenario, a buyers' agent (**Buyers' Agent**) wishes to refer their client (**Buyer**) to a selling agent from Ray White (**Selling Agent**). The Buyers' Agent is currently acting as the exclusive buyers' agent for the Buyer and is searching for the Buyers' new home.

Again, REINSW is of the view that issues regarding conflict of interest will not arise in this situation. If the Buyer sells their property and the Buyers' Agent purchases it for one of their other clients, then the Buyers' Agent would not be entitled to a referral fee from the Selling Agent.

REINSW notes that this scenario is considered problematic because the current legislation prohibits the Buyers' Agent from receiving a referral fee even in circumstances where:

- (a) either no conflict of interest exists or where a conflict exists but the relevant disclosures have been made and accepted by the client; and
- (b) where the Buyers' Agent is acting in the best interests of their client by making the referral.

## **4.3 Proposed Amendments and Position**

REINSW is of the opinion that the legislation (specifically, clause 9F of Schedule 2 to the Regulation) should be amended to permit referral fees in all the above circumstances but also to remove the broad, "catch-all" nature of the clause. Clause 9F of Schedule 2 also fails to address the unfair balance between what selling agents can and what buyers' agents can't do in this space. For instance, whilst buyers' agents are prohibited from receiving referral fees for referring clients to selling agents, selling agents are entitled to receive them for referrals to other selling agents (for example, where they do not have the resources to take on the sale themselves).

Regarding Scenario 4 in section 4.2(d) above, although there is a fine line between acceptable conduct and a potential conflict of interest, if there is no benefit to be obtained by the Buyers' Agent other than the referral fee, repeat business and a satisfied client, then REINSW is of the view that there should be no reason as to why a conflict of interest should arise in this circumstance, particularly since the referral fee must be disclosed to the client under section 47 of the Act, and accepted by the client.

Hypothetically, the Buyers' Agent is referring their client to an independent agency – if the Buyers' Agent was referring their client to another selling agent within their office or to a family member, then REINSW sees that this could lead to a conflict of interest. Nonetheless, if there is no business, family or fiduciary relationship between the referrer and referee, REINSW sees no reason as to why a referral fee cannot be accepted.

With this in mind, REINSW draws your attention to the requirement for buyers' agents to make a disclosure under section 47 of the Act if these types of relationships or referral fees occur. In particular, the duty for buyers' agents to disclose in such circumstances

should give the comfort required to ensure that if there is a conflict of interest then there is no detriment to the client if they choose to proceed with the transaction based on the disclosure made and the transparency created. Hence, REINSW believes that the legislation should be amended to permit buyers' agents to receive a referral fee on the basis that clients have the requisite transparency necessary to make an informed decision on whether or not to proceed with the transaction having considered the agent's section 47 disclosures.

Whilst REINSW appreciates that the overriding principles are to ensure that buyers' agents are not "double dipping" nor are they to create a situation where there is a conflict of interest, there should be nothing preventing a conjunction arrangement between selling and buyers' agents where they share the commission relating to the sale. REINSW sees no reason why a good, responsible agent should not be entitled to their reward when acting for the benefit of their clients.

REINSW also suggests redefining the concept of a "referral fee" to a situation of conjunction whereby selling agents and buyers' agents share the commission for their work rather than receiving a "fee" per se. In light of this, REINSW considers the only requirement to be that set out in section 33 of the Act so that a licensee must only act in conjunction with another licensed individual, further supporting the notion that licensed selling agents and buyers' agents should be able to enter into arrangements whereby one receives a benefit for referring the services of the other to their client when acting in good faith.

In summary, provided that an agent makes the relevant disclosures required by section 47 of the Act, scenarios such as Scenario 4 above should be considered acceptable and buyers' agents should be permitted to receive a referral fee or shared commission. Whilst mechanisms should remain in place whereby the buyers' agent waives any right to a referral fee where there is a conflict of interest or where the buyers' agent stands to benefit at the expense of their client, such mechanisms should not hinder those who have disclosed such conflicts which have been accepted by their clients, and they are acting in good faith, for a proper purpose and in the best interests of their clients.

## 5. Rules of Conduct Specific to Buyers' Agents

Due to the importance and continual growth of buyers' agents in the market, REINSW sees the need for more relevant rules of conduct to apply to buyers' agents. Accordingly, REINSW suggests that clauses 9A-9F of Schedule 2 to the Regulation be amended as per the **enclosed** proposed clauses 9A-9E, by omitting clauses 9E and 9F, namely "*Information to be given when expression of interest deposit paid*" and "*Agent must not accept payment for a referral*", respectively, and including a new clause 9E dealing with the accreditation of buyers' agents.

The rationale for deleting clause 9E of Schedule 2 is because it contemplates a very rare circumstance and only leads to confusion for purchasers. Such confusion stems from the use of a similar phrase in the industry with respect to selling property, namely, an "expression of interest". REINSW is of the view that an expression of interest deposit is archaic and, since it does not take the property off the market and serves to cause confusion, REINSW questions its purpose and inclusion as a rule of conduct. Further, REINSW is aware of very experienced buyers' agents who have never had to deal with an

expression of interest deposit. This corroborates the point that it is archaic and should be removed from Schedule 2.

The deletion of clause 9F of Schedule 2 is a consequential change resulting from REINSW's position set out in section 4 of this Submission.

Similarly, the inclusion of the proposed new clause 9E of Schedule 2 is a consequential change resulting from REINSW's position set out in sections 2.3, 2.4, and 3 above.

## **6. Conclusion**

REINSW advocates for providing buyers' agents with a fair opportunity to distinguish and pursue their profession within the property industry.

REINSW makes the recommendations set out in this Submission with the hope of creating a fair, balanced, recognised and specialised profession for buyers' agents. Buyers' agents will then receive official recognition for their unique skills and expertise, which ultimately benefits consumers.

REINSW envisages that these recommendations will remove any confusion in respect of the profession and will enhance consumer confidence, trust and awareness when it comes to purchasing a property (being, their most prized possession).

REINSW appreciates the opportunity to provide this Submission and would be pleased to discuss it further.

Yours faithfully



**Tim McKibbin**  
**Chief Executive Officer**



**Australian Government**

# **CPP41419 Certificate IV in Real Estate Practice**

**Release 1**

# CPP41419 Certificate IV in Real Estate Practice

## Modification History

Release 1 This version first released with CPP Property Services Training Package Release 8.0.

Supersedes and is not equivalent to:

- CPP40307 Certificate IV in Property Services (Real Estate)
- CPP40407 Certificate IV in Property Services (Stock and Station Agency)
- CPP40507 Certificate IV in Property Services (Business Broking)
- CPP40611 Certificate IV in Property Services (Operations).

Qualifications were merged to reduce duplication and to provide clearer alignment with licensing outcomes.

## Qualification Description

This qualification reflects the role of real estate professionals who apply knowledge of real estate practice legal agency and compliance requirements, ethical standards and consumer preferences to conduct real estate functions.

This qualification applies to people working in both residential and commercial property, including business broking, and stock and station transactions.

Occupational titles may include:

- Auctioneer
- Stock and Station Agent
- Business Broker, Business Agent, Franchise Broker
- Property Manager, Body Corporate Manager
- Real Estate Agent
- Real Estate Representative, Real Estate Salesperson, Real Estate Sub-agent, Property Portfolio Officer, Buyer's Agent.

Staff who hold this qualification are commonly engaged with:

- analysing data, industry intelligence and leads to identify prospects
- developing, building and maintaining relationships with lessors, tenants, vendors and buyers
- providing advice to lessors, tenants, vendors and buyers on the sale, purchase or lease of commercial, residential, stock and station, and property real estate
- implementing systems, forms and documents to ensure real estate agency transactions are compliant with regulatory requirements; managing risk to agency and agent, and demonstrating high standards of ethical practice

- transacting, accessing, and preserving the integrity of trust accounts to minimise customer and agency risk
- establishing, maintaining, executing and concluding contracts with lessors, tenants, vendors and buyers, including by auction
- building and promoting the agency and individual brands.

Licensing, legislative, regulatory or certification requirements

Licensing, legislative, regulatory or certification requirements apply to real estate practices in all states and territories. Relevant state and territory regulatory authorities should be consulted to confirm those requirements.

Note: Occupational licensing outcomes are associated with some of the specialisations packaged in this qualification. The units packaged in the specialisations of this qualification have also been developed as Skill Sets: please note that not all Skill Sets are associated with licensing outcomes.

Code	Title
CPPSS00065	Residential Property Sales
CPPSS00066	Residential Property Management
CPPSS00067	Property Management Business Development
CPPSS00068	Auctioneering
CPPSS00069	Buyer's Agent
CPPSS00070	Onsite Property Management
CPPSS00071	Commercial Sales and Leasing
CPPSS00072	Commercial and Property Management
CPPSS00073	Business Broking
CPPSS00074	Stock and Station, Stock
CPPSS00075	Stock and Station, Station
CPPSS00076	Administration Management/Office Support

## Entry Requirements

There are no entry requirements for this qualification.

## Packaging Rules

To achieve this qualification, competency must be demonstrated in:

- 18 units of competency:
  - 5 core units
  - 13 elective units.

The elective units must ensure the integrity of the Australian Qualifications Framework (AQF) qualification alignment, contribute to a valid, industry-supported vocational outcome and are to be chosen as follows:

- all the elective units in any two elective groups from Groups A–L listed below must be chosen
- the remaining elective units may be chosen from the general elective units listed below or the CPP Property Services Training Package.

### Core units

CPPREP4001	Prepare for professional practice in real estate
CPPREP4002	Access and interpret ethical practice in real estate
CPPREP4003	Access and interpret legislation in real estate
CPPREP4004	Establish marketing and communication profiles in real estate
CPPREP4005	Prepare to work with real estate trust accounts

### Elective units

#### Group A - Residential Property Sales

CPPREP4101	Appraise property for sale or lease
CPPREP4102	Market property
CPPREP4103	Establish vendor relationships
CPPREP4104	Establish buyer relationships
CPPREP4105	Sell property

#### Group B - Residential Property Management

CPPREP4101	Appraise property for sale or lease
CPPREP4102	Market property
CPPREP4121	Establish landlord relationships

CPPREP4122 Manage tenant relationships

CPPREP4123 Manage tenancy

CPPREP4124 End tenancy

CPPREP4125 Transact in trust accounts

### **Group C - Property Management Business Development**

CPPREP4101 Appraise property for sale or lease

CPPREP4141 Establish and maintain property management portfolio

CPPREP4142 Promote property management products and services

### **Group D - Auctioneering**

CPPREP4161 Undertake pre-auction processes

CPPREP4162 Conduct and complete sale by auction

CPPREP4163 Complete post-auction process and contract execution

### **Group E - Buyer's Agent**

CPPREP4101 Appraise property for sale or lease

CPPREP4171 Represent buyer in sales process

CPPREP4172 Develop and promote property industry knowledge - buyer's agent

CPPREP4173 Complete purchase of property as buyer's agent

### **Group F - Onsite Property Manager**

CPPREP4181 Manage onsite residential property

### **Group G - Commercial Sales and Leasing**

CPPREP4102 Market property

CPPREP4201 Appraise commercial property

CPPREP4202 Establish and maintain vendor and lessor relationships and networks

CPPREP4203 Complete commercial property sale

CPPREP4204 Establish commercial property lease

CPPREP5201 Develop and maintain commercial property market intelligence

**Group H - Commercial and Property Management**

- CPPREP4231 Manage commercial property maintenance
- CPPREP4232 Manage commercial property financial reports
- CPPREP4233 Manage lessee relationships - commercial
- CPPREP4234 Manage lessor relationships - commercial
- CPPREP4235 End commercial property lease

**Group I - Business Broking**

- CPPREP4261 Appraise business for sale
- CPPREP4262 Establish vendor relationships in business broking
- CPPREP4263 Manage buyer relationships in business broking
- CPPREP4264 Manage the sales process in business broking

**Group J - Stock and Station, Stock**

- CPPREP4301 Confirm and market livestock for sale
- CPPREP4302 Prepare livestock for sale
- CPPREP4303 Establish vendor and buyer relationships in livestock sale
- CPPREP4304 Complete the sales process - livestock

**Group K - Stock and Station, Station**

- CPPREP4101 Appraise property for sale or lease
- CPPREP4102 Market property
- CPPREP4103 Establish vendor relationships
- CPPREP4104 Establish buyer relationships
- CPPREP4105 Sell property
- CPPREP4123 Manage tenancy
- CPPREP4125 Transact in trust accounts
- CPPREP5311 Develop and maintain rural property market knowledge and intelligence

**Group L - Administration Management/Office Support**

BSBHRM405 Support the recruitment, selection and induction of staff

SIRXMGT001 Supervise and support frontline team members

**General Elective Units**

BSBDIV301 Work effectively with diversity

CPPREP4501 Prepare to complete the sales process - off the plan properties

CPPREP4502 Support providers of social and community housing

CPPREP4503 Present at hearings in real estate

CPPREP4504 Deliver presentations to clients in real estate

CPPREP4505 Value goods, chattels, plant and equipment

CPPREP4506 Manage offsite and lone worker safety in real estate

CPPREP4507 Provide property sustainability information in real estate

CPPREP4508 Conduct livestock auction

CPPREP4509 Auction goods, chattels or equipment

CPPREP4510 Manage short-term or holiday letting

**Qualification Mapping Information**

CPP Property Services Training Package Release 8.0	CPP07 Property Services Training Package	Comments	Equivalency statement
CPP41419 Certificate IV in Real Estate Practice.	<ul style="list-style-type: none"> <li>• CPP40307 Certificate IV in Property Services (Real Estate)</li> <li>• CPP40407 Certificate IV in Property Services (Stock and Station Agency)</li> <li>• CPP40507 Certificate IV in Property Services (Business Broking)</li> <li>• CPP40611 Certificate IV in Property Services</li> </ul>	<p>Supersedes and is not equivalent to:</p> <ul style="list-style-type: none"> <li>• CPP40307 Certificate IV in Property Services (Real Estate)</li> <li>• CPP40407 Certificate IV in Property Services (Stock and Station Agency)</li> <li>• CPP40507 Certificate IV in Property</li> </ul>	N

	(Operations)	<p>Services (Business Broking)</p> <ul style="list-style-type: none"> <li>• CPP40611 Certificate IV in Property Services (Operations).</li> </ul> <p>Qualifications were merged to reduce duplication and to provide clearer alignment with licensing outcomes.</p>	
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## Links

An Implementation Guide to this Training Package is available at - <https://vetnet.education.gov.au/Pages/TrainingDocs.aspx?q=6f3f9672-30e8-4835-b348-205dfcf13d9b>

## Clauses 9A-9G of Schedule 2 - Rules specific to buyers agents

(Clause 7)

### **Note.**

Clause 7 provides that a reference in this Schedule to an agent includes a reference to a assistant agent to whom the Schedule applies.

### **9A Statement of property details**

At the time of entering into an agency agreement with a person on behalf of whom an agent is to act as buyer's agent, the agent must prepare and give the person a statement of property details that is signed by the agent and specifies the following:

- (a) details known to the agent of the type of property to be purchased,
- (b) details of any special instructions about the property to be purchased (for example, an instruction that vacant possession is required in the case of a rented property).

**Note.** These details can be changed by agreement between the parties or as provided by the agency agreement.

### **9B Person on behalf of whom agent is acting as buyer's agent to be informed of negotiations**

- (1) An agent acting as a buyer's agent for a person must keep the person informed of each stage of the negotiation of a purchase price as instructed by the person.
- (2) This clause does not apply to bids made in the course of an auction.

### **9C Buyer's agent to obtain best possible purchase price**

An agent acting as a buyer's agent must use the agent's best efforts to obtain the best possible purchase price, without breaching standards of ethical conduct or engaging in conduct that is contrary to good agency practice.

### **9D Buyer's Agent not to exceed maximum purchase price fixed by client in negotiations or at auction**

- (1) In negotiations for the purchase of a property, an agent acting as a buyer's agent for a person (the **client**) must not exceed the maximum price fixed by the client without the express written authorisation of the client or a person authorised by the client.
- (2) When the bidding at an auction exceeds the maximum price fixed by the client, the agent must not continue bidding without the express authorisation of the client or a person authorised by the client.

### **9E Accreditation of Buyers' Agent**

A real estate agent or assistant real estate agent must not act as a buyer's agent without being accredited as a buyer's agent under the Act.