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# Journal

NOV 2014  
VOL 65/11



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**THE DOTTED**  
**LINE**

The new Contract  
for Sale and  
Purchase of Land

**Boom or bust**  
How REINSW  
is fighting for  
baby boomers

**Santa is coming**  
Make sure you're  
prepared for  
Christmas

**Winners are grinners**  
The highlights from  
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30-32 Wentworth Avenue  
Sydney NSW 2000  
(02) 9264 2343  
info@reinsw.com.au  
www.reinsw.com.au

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#### Real Estate Journal

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Mahlab Media  
369a Darling Street  
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**Editor:** Jessica Abelsohn  
jessica@mahlabmedia.com.au

**Advertising Executive:**  
Aoife Royston  
aoife@mahlabmedia.com.au

**Designer:** Katherine Gennusa

**Chief Content Officer:** Martin Wanless

**Head of Client Services:**  
Roslyn Atkinson

**Sales Director:** Sara Lewis

**REINSW Managing Editor:**  
Cathie Dickinson

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**Mahlab**  
MEDIA



Legal commentator Tony Cahill discusses what the changes to the Contract for Sale will mean for you.

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# The importance of contracts

The Contract for Sale, one of the most important documents a real estate professional handles on a day-to-day basis, has received an overhaul for the first time since 2005.

The significance of this new document, due to come into effect later this month, should not be underestimated. The updated Contract reflects years of planning and lobbying, and it is going to be fully electronic, which is a major step forward for the industry and something that is long overdue.

For the first time, buyers' agents will be included on the front page of the Contract. This is a great win for our Buyers' Agents Chapter Committee, who have lobbied long and hard for the inclusion of buyers' agents in the Contract.

In the last nine years we have seen dramatic growth in the number and activity of buyers' agents. We are delighted by their inclusion as it reflects the way forward in real estate whereby both the buyer and the seller have professional representation.

We believe that this level of professionalism and support on both sides is good for everybody. The move towards engaging buyers' agents is a recognition by consumers of the complexities associated with the property transaction and the investment of time, energy and expertise required to seek and review suitable properties. The Contract now also allows for the buyers' agent to be a deposit holder.

The name of the document itself has been changed from the Contract for Sale of Land to the Contract for Sale and Purchase of

Land, which gives greater recognition of both parties to the contact and their respective rights and obligations.

Above are just some of the amendments to the Contract. It is essential that all members familiarise themselves with the changes and undertake proper training in order to understand how the new Contract will impact them in everyday practice.

We have engaged legal author and commentator Tony Cahill to develop and provide training on the new Contract. Tony sits on the Law Society's Property Law Committee and is a member of the drafting committee of the Contract. He will compare the existing contractual clauses with the new clauses, and will explain the main features of electronic conveyancing and how it will affect the traditional conveyancing system. Go to [reinsw.com.au](http://reinsw.com.au) to find out when The New Contract for Sale CPD course is being offered.

You can find out more about the new Contract for Sale and Purchase of Land by reading this month's feature article on page 22.

**Tim McKibbin**  
REINSW CEO



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## News in brief

### DANGER SIGNS FOR PROPERTY MARKET

According to AMP Capital Head of Investment Strategy and Chief Economist Dr Shane Oliver, danger signs are emerging for Australia's property market, and it could be due to the success of TV reality series *The Block*.

Dr Oliver said the high ratings for the most-watched show on TV highlights strong public interest in the property market.

"There are signs that homebuyers are starting to extrapolate recent strong price gains into the future, which is very dangerous."

The two main drivers for soaring house prices, Dr Oliver said, are low interest rates and a lack of supply.

### PAYING RENT THROUGH BITCOIN

Tenants are now able to pay rent through bitcoin, the digital currency via which transactions can be made without the need for a central bank.

Australian-made currency exchange platform *igot.com* allows tenants to pay rent through the user's personal banking account.

If users choose to pay a certain amount with bitcoin, *igot* exchanges the digital currency to pay the landlord directly.

### FIRST HOMEBUYERS SAVING LONGER

Rising property prices are forcing first homebuyers to save for longer to get their foot in the property door.

According to the Mortgage Choice *First Home Owner Survey*, one in four first homebuyers said they saved for five years or more in order to buy their property.

Compare this to 2011, when first homebuyers saved on average for less than two years.

# REINSW goes international

Recognising the need for a specific Chapter to service international clients, REINSW has launched the International Chapter.

Under the leadership of Chapter Chair and Henson Properties Owners, Ray Chan, the International Chapter will aim to ensure that the state is not discouraging foreign investment.

"It is vital in this global age for us all to think beyond our own backyards. With the appropriate protocols, support and procedures in place, this is something members can explore efficiently and confidently," REINSW CEO Tim McKibbin said.

Goals of the International Chapter include improving communication between local and overseas markets, lobbying for improved processes, protecting the image of international practitioners and creating an educational platform for REINSW members.

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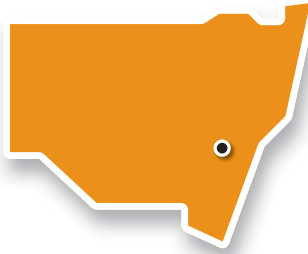
## Spotlight on: Orange

**Median house price:** \$339,000

**Median unit price:** \$279,000

**Median weekly rent:** \$300

Source: REINSW Property Profile – June 2014



### MITCHELL DANSEY SALESPERSON AT JOHN COOK REAL ESTATE

Sales have been strong in recent months, with the majority of the buyer activity in the \$300,000-\$400,000 price range for established homes. We are seeing a good mix of first homebuyers, owners upgrading and investors.

Centrally located residences generate plenty of interest in the current market as more new homes are being built. Due to the availability of the current government grants, there is also a demand for brand new three- and four-bedroom homes.

In the short-term, we expect the market to remain relatively steady.

### STEPHEN TOWNSEND PRINCIPAL AT TOWNSEND REAL ESTATE

There is a strong demand from first homebuyers and our rural clients, who are downsizing and moving into town.

Unfortunately, at the moment the residential vacancy rate is a tad under four per cent. Now that the market has steadied up, sensible vendors who are taking heed of the market indicators are getting great results.

Orange has always been a strong regional centre. Orange's reputation as one of Australia's pre-eminent locations to reside and invest in will ensure home, land and rural properties will continue to appreciate in value.

## TOP TIPS OF THE MONTH

**Want to know whether that person walking through your open house is a legitimate buyer? Here are our top tips for reading body language.**

### 1.

#### Voice

Interest is shown through people's vocal chords. A woman's voice will slip into a sing-songy tone, while a man's will drop an octave.

### 2.

#### Eye contact

Depending on the level, eye contact either shows disinterest or positivity. Making eye contact normally while in a conversation shows interest. However, when people are lying they tend to hold eye contact for a lot longer than normal to avoid looking shifty-eyed.

### 3.

#### Posture

If a person is leaning back and relaxed, they feel powerful and in control. Crossed or wrapped arms can be a sign of stress, defensiveness or discomfort. Crossed legs can also be a sign that the person is closed off. According to a study by the authors of *How to Read a Person Like a Book*, out of 2000 negotiations, there wasn't a single settlement when one negotiator had their legs crossed.

Source: Business Insider Australia

## Checklist: Commission-only employment

BY GREG PATERSON, EXECUTIVE DIRECTOR OF THE REAL ESTATE EMPLOYERS' FEDERATION

### Does the employee qualify?

To be employed on a commission-only basis, all of the following boxes need to be ticked.

- The employee has either a Real Estate Licence or a Certificate of Registration.
- The employee is at least 21 years of age.
- The employee has been employed as a real estate salesperson for a minimum of 12 months in the five years immediately prior.
- The employee is not employed as a casual, a trainee or a property sales associate.
- The employee has demonstrated, through the provision of satisfactory evidence, that the Minimum Income Threshold Test (MITT) is satisfied. No evidence = no start.

### What's the MITT?

The MITT is a calculation used to demonstrate that had the employee been employed during the selected 12-month period on a commission-only basis, the employee received annual remuneration at least 10 per cent higher than the minimum award wage for the employee's classification.

### Is the paperwork in order?

You must prepare a written agreement that sets out the basis upon which the salesperson's commission entitlement will be calculated. Without this, there is a breach of the Real Estate Industry Award.

### Is there a minimum commission-only rate?

The Award prescribes that the minimum commission-only rate is 35 per cent of the employer's net commission (as defined in the Award) from each sales transaction for which the employee was responsible.

### What are the consequences?

Employers who engage an employee on a commission-only basis without first satisfying the Award requirements face the prospect that the employee will claim for entitlements that would have been payable, except for the unlawful commission-only arrangement. The courts can also impose a civil penalty up to a maximum of \$51,000 against a corporate employer for breach of an industrial instrument.

For more information, please contact the Real Estate Employers' Federation by calling (02) 9261 2666.

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# SURVIVAL OF THE FITTEST

REINSW President Malcolm Gunning looks at what the industry would be like if the association wasn't around.



Malcolm Gunning, REINSW President believes that you're the reason the association needs to stay strong.

Charles Darwin once said, "It is not the strongest or the most intelligent who will survive but those who can best manage change."

A question I often ask myself is: "where would the real estate industry be without the Real Estate Institute of New South Wales, especially when it comes to the government and managing change?"

When it comes to lobbying and consultation with government, REINSW is the spokesperson and the go-to organisation for the whole industry. REINSW continues to focus on taxation, planning policy and of course the elevation of the profession.

## So what are we doing?

Recently, REINSW was particularly vocal in relation to the proposed deregulation of commercial leasing. In the October edition, the *Journal* investigated what this would have meant for real estate professionals and how REINSW lobbied against it. If you missed it, the Shopping Centre Council wanted to de-licence transactions above 10,000 square metres or \$10 million.

Many of our institutional member agents were reluctant to go public because the Shopping Centre Council represented many of their major owners or landlords. But REINSW took it on board and lobbied the Minister for Fair Trading against overwhelming consensus, and was successful. The reason being that REINSW brought common sense to the argument. We were concerned that if those transactions were deregulated, the tenant or even the purchaser would lose another level of certainty and confidence.

But this is just one of many issues that REINSW has been working on.

Recently, the NSW Office of Local Government made the decision to delay the new provisions regarding swimming pool compliance by 12 months due to REINSW's lobbying efforts. We were keenly aware of the delays being experienced in securing the necessary compliance certificates, so we pushed the Government to reevaluate the situation.

REINSW also called for changes to NSW Government planning policy to allow for smaller lot development and a variety of medium density housing choices. The new planning policy, which rolled out in early August is a move in the right direction. We hope the policy will continue to be rolled out across other areas, including regional NSW which is crying out for a wide variety of housing styles.

REINSW is also heavily involved in the drafting of a new standard retail lease, which we expect to be used in the market next year. We are lobbying for this standard retail lease to become mandatory and to be included in NSW's retail lease legislation.

As always, we will continue to push for a reform on stamp duty and other onerous taxes which severely impacts consumers' ability to enter or remain in the property market.

And this is just a snapshot of the issues we are focused on. If REINSW wasn't there lobbying in these areas, you'd have government passing laws which may disadvantage not only real estate agents but the public as well.

We're the spokespeople for fair play when it comes to the transaction of real estate in this state. Without our voice, we'd be in the hands of self-interest lobby groups and government regulators. Without our voice, would the real estate industry continue to exist in its current state? Or would it die out at the hands of government regulators?

We hope the NSW property professionals never have to find out. ♦

# Seize the opportunity

After a three-month consulting role working on a corporate restructure, Adrienne Revai was introduced to the real estate industry. One merger, nine and a half years and several different roles later, she's now Chief Operating Officer of JLL.

I started out as a lawyer and was fortunate to get some great commercial and dispute resolution experience working as a litigator. I decided to move into the corporate environment because I was more interested in the bigger picture of what makes a corporation successful than just playing a part in assisting corporate clients to resolve disputes well.

## Moving into real estate

My move into real estate was serendipity really. Following a three-month stint with what was then Jones Lang Wootton, I never really left.

I am surrounded by many colleagues who have had very long and rewarding careers at JLL. I have been able to take advantage of the many opportunities that working in real estate offers. I have worked across many different types of roles, from legal and risk management, running teams providing real estate services to clients, to my current role as Chief Operating Officer. I have also had the opportunity to live and work overseas.

There are a myriad of differences between commercial and residential real estate business lines, particularly in relation to what service delivery for each involves and the needs of the clients. However, the same qualities are necessary in both: professionalism, customer focus, ethics, market awareness and a forward-thinking approach.



The most importance piece of advice I've ever received is to focus on solutions, not problems. The second is not to underestimate the value of patience and perserverance.



## Appreciating the industry

What I love most about real estate is that it gives different types of people opportunities to play to their strengths. There is not just one way to be successful and to make a valuable contribution in this profession. I have also loved the opportunity to be a mentor to others in the profession. I have learned a lot from them in terms of what they do (which may be vastly different to what I do) and also felt privileged to be able to play a part in helping them succeed in their careers.

The most important piece of advice I've ever received is to focus on solutions, not problems. The second is not to underestimate the value of patience and perseverance. ♦



**ADRIENNE REVAI** SHARES HER ADVICE ON HOW TO SUCCEED IN COMMERCIAL REAL ESTATE AND INVESTMENT MANAGEMENT.

## STARTING OUT

A graduate program is a great way to start a career. There are other ways to get into the industry for those who are just starting out or those who have had other careers and want to work their way in. For example, we have people start in our Customer Service Centre, research or admin who are now successful negotiators, analysts, or property or facility managers. Networking is another way to get a foothold. There is great power in an introduction or someone looking out for an opportunity for you.

## WORK HARD FOR WHAT YOU WANT

If you feel that you are not getting the opportunities that you would like, or you are not getting satisfaction from what you are doing, be proactive in looking for other opportunities. However, there are times when you may need to stick with something because it will give you greater experience or exposure. Being able to talk to a mentor, or someone whose advice you trust, is also very helpful.

## RECOGNISE THE QUALITIES

Aside from the obvious being professionalism, customer focus, ethics, market awareness and a forward thinking approach, a strong work ethic and good organisation/project management skills are essential for success. Real estate is undoubtedly a competitive industry, but in my experience those who are most successful know how to work well with others. It is important to be a good listener and, where necessary, ask questions to understand what it is your client needs, to work effectively with others and to learn from others.



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# Q. Buyers' agent: Friend or foe?

The *Journal* asks REINSW members which side they fall on.

## “YES”



**JOSH MASTERS**  
Buyers' agent  
at Buyside

There's a saying that you make your money when you buy, not when you sell.

Buying well is fundamental to increasing your wealth as you build your investments in property. Yet for all the steps involved in successful property investment, most investors will choose a DIY approach rather than engaging a professional buyers' agent.

To shed some light on the profession, a buyers' agent acts in the same capacity as a stockbroker does for the share market.

If looking to buy shares, for example, people call a stockbroker for advice about the stock market – advice on the best strategy, help with executing the deal and even managing your portfolio.

A buyers' agent will do the same thing in the property market.

A buyers' agent can research ideal areas, locate suitable properties that are available through both public and private sources and they can also negotiate the best property deals on a client's behalf.

It can be an extremely useful service for those who are time poor or simply can't make it out into the market themselves.

Engaging a buyers' agent is effectively outsourcing the act of buying property to an expert.

In the meantime, clients can get on with their lives and spend that valuable time with friends or family, rather than spending weekends hopping from inspection to inspection or trawling the internet each evening looking for that perfect property.

While many companies claim to work for the buyer, sourcing properties Australia-wide at no cost, many of these services are driven by developers who need a selling channel to move their stock.

Buyers' agents, on the other hand, get paid directly by the buyer which means that they're looking after the buyer's best interests.

## “NO”



**BETTY OCKERLANDER**  
Principal at  
Better Homes  
Realty

While there is definitely a place for buyers' agents in some situations, I find that there is a great deal of inconsistency and many buyers' agents are a hindrance from our side of the fence.

I see buyers' agents being engaged by their clients to find them the right home, negotiate or bid on their behalf, or on many occasions to do both.

Buyers' agents who possess negotiating skills can help their clients negotiate the best price with an agent in a private treaty situation, but how many homes are sold by private treaty today?

I love chatting about properties with prospective purchasers. Most properties are being auctioned now, so price conversations are difficult. I understand that buyers' agents don't want to go and see every single house, but many become very pushy trying to extract from us the future selling price.

We are finding a great deal of conflict and confusion where both the buyer and buyers' agent contact us and we end up dealing with both. In most cases we are under the impression that we are dealing with two different people when in fact we are not. This maybe a tactic to see if we are giving the same information to both parties or the agent may not have their brief clear enough.

When buyers are coming from overseas or interstate, they can't be here to view homes or know the correct value. It is also difficult for some professional couples who just don't have the time to research new areas.

Buyers' agents provide an invaluable service to prospective buyers in this situation. These buyers need to be able to trust someone to research the area and search around and do the legwork on our behalf.

The next question is: are we becoming more like the US where everyone deals through a buyers' agent and a selling agent? Will our market ever warrant this?



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## OUR INDUSTRY'S ACHIEVEMENTS UP IN

# REINSW



## AND THE WINNERS ARE...

The industry's night of nights revealed a plethora of talent as winners of the Awards for Excellence were announced.

The real estate industry's high achievers were recognised in early October at the 2014 REINSW Awards for Excellence. Property professionals from across NSW descended on Doltone House for the annual Gala Dinner to celebrate the finalists and winners.

Emceed by Andrew Daddo, who had guests in stitches from the moment he stepped on stage, the Gala Dinner was a huge success. Awards were given out across 21 categories.

REINSW President Malcolm Gunning said the Awards for Excellence saw unprecedented levels of interest this year following a revamp of the

categories, entry process and judging criteria. "The REINSW Awards for Excellence program has a rich history. The introduction of several new categories including Digital Marketing and Rising Star proved to be a great success without taking away from our more established categories," Mr Gunning said.

"The REINSW Awards for Excellence have a bright future. Our winners are the best in their field and this recognition is not only a vote of support from the industry body, it is used as a valuable tool by consumers who look to REINSW as a leader."



## WOODROW WEIGHT AWARD WINNER

**David Scholes**  
auctionWORKS Founder and Principal

Real Estate Institute of New South Wales President Malcolm Gunning was exceptionally proud to present the prestigious Woodrow Weight Award for outstanding service to REINSW and the profession to auctionWORKS founder and principal David Scholes.

The highest accolade presented by REINSW, the Woodrow Weight Award is named after the legendary OBE recipient, REINSW President and first-ever Australian to be elected World President of the International Real Estate Federation in 1977.

Mr Gunning paid tribute to Mr Scholes, revealing the incredible stamp he has made on the industry as an auctioneer.

Auctioning more than 35,000 properties over the course of his career, Mr Gunning said that he has set the benchmark for auctioneering over the past decade.

“David is a true believer in the auction method of sale. His online auction system was the first of its kind when he developed it a decade ago. It was – and remains – truly innovative.”

Mr Gunning also praised Mr Scholes for investing in the careers of his peers. “He has worked hard to improve the standing of auctioneers in NSW, as well as working for the benefit of the industry overall. Always willing to give of his time and share his wisdom with an eager learner, countless agents and auctioneers have benefited from his wisdom and knowledge.”

Mr Scholes said he was honoured and humbled to receive such a prestigious award and praised REINSW for all the work they have done and continue to do, thanking the industry and his team for helping him along the way.





**1. AUCTIONEER**

Clarence White  
McGrath Estate Agents

**BUYERS' AGENT**

Jacqueline Parker  
House Search Australia  
(unable to attend)

**2. COMMERCIAL AGENCY – LARGE**  
CBRE

**3. COMMERCIAL AGENCY – SMALL**  
Knight Frank Newcastle

**4. COMMERCIAL PROPERTY MANAGER**

Shaun Kenney  
CBRE

**5. COMMERCIAL SALESPERSON**

Dominic Ong  
Knight Frank  
(Award accepted by  
Knight Frank Managing  
Director Richard Horne)

**6. CORPORATE SUPPORT**

Sarah Bester  
Ray White Double Bay



For all the photos from the night, head to the REINSW Facebook page [www.facebook.com/REINSW](http://www.facebook.com/REINSW)



7



8

**7. DIGITAL MARKETING**

Wilson Property Agents

**8. HOLIDAY & SHORT TERM RENTALS AGENCY**

Professionals Forster Tuncurry



9



10

**9. INNOVATION**

Century 21 Cordeau Marshall



Rockend provides innovative, reliable and easy-to-use software for businesses in the real estate industry. Their 32 years of operation confirms that reliable, functionally rich software is important for any business.

**10. JOHN GREIG OAM COMMUNITY SERVICE**

Anastasia Whittaker  
Bathurst Real Estate  
(Award accepted by  
Zara Noonan)



REI Super is the natural fund of choice for those working in the property sector. As an industry fund, REI Super pays no commissions to financial advisers and provides a 'lifetime of difference' to fund members.



11



12

**11. PROPERTY MARKETER**

Brian McInnally  
Colliers International

**12. REAL ESTATE AGENCY - LARGE**

Morton & Morton



realestateVIEW.com.au can provide your business with a cost-effective advertising solution to drive enquiries for your listings, with free multi-loading to the large portals and free access to a rental archive.



13



14

**13 & 14. REAL ESTATE AGENCY - SMALL**

JOINT WINNERS

Atkinsons Real Estate (14) and  
Wilson Property Agents (15)



PropertySafe has created a robust industry leading solution to identify and report on safety hazards and ensure that agencies are in complete control of every maintenance task in their portfolio.



15



17



19



20



16



18



21

**15. RESIDENTIAL PROPERTY MANAGEMENT TEAM**

Morton & Morton



Smoke Alarm Solutions is Australia's leading smoke alarm maintenance company, providing comprehensive yet cost-effective solutions for their clients. In operation since 2007, they currently service in excess of 200,000 Australian homes.

**16. RESIDENTIAL PROPERTY MANAGER**

Myra Bloomfield  
Drummond Real Estate



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**17. RESIDENTIAL SALES TEAM**

Cunninghams Property

**18. RESIDENTIAL SALESPERSON**

Peter Chauncy  
McGrath Crows Nest



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**19. RISING STAR**

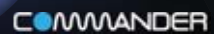
Michael Holloway  
Raine & Horne Double Bay

**20. RURAL MARKETER**

Richard Gemmell  
Elders Rural Services

**21. YOUNG AGENT**

Larissa Reed  
Payne Pacific Real Estate



With Commander, agents can access great business phone, mobile and internet products at competitive rates, with the added benefit of receiving a monthly rebate off their bill.

# Baby boomers out

As property prices soar, baby boomers looking to downsize feel they are being priced out of the market. But is it just an affordability issue?

BY JESSICA ABELSOHN

Looking to sell their family-sized houses and move into smaller, compact and more manageable homes, baby boomers are hoping their retirement dreams aren't being crushed by the property market.

According to the *Baby Boomers Housing Lifestyle Report*, recently released by realestateVIEW.com.au, one in three Australians aged 50 to 69 are uncomfortable with increasing property prices and fear that they will not be able to fund their retirement due to the rise in property prices and the associated taxes.

The report also revealed that baby boomers in NSW are the hardest hit, as more than half of respondents believe they will have to relocate to a new area to afford a smaller home.

But what is causing this concern? Property prices are going up, children are staying at home longer, the same bills are coming in, but there is only half the money coming in, if at all. Plus, there are relocation costs. "On average, you're going to be paying another 10 per cent to relocate," REINSW President Malcolm Gunning said.

## What can baby boomers do?

The question is: what can be done to solve the issue? Some say it's all about being open to moving out of your comfort zone.

According to Mr Gunning, expectations are part of the problem. "If they're looking to sell high and buy low, best to get out of Sydney. But if they want to stay in the city, they'll need to adjust their thoughts."

Mr Gunning suggests possibly looking at an apartment, rather than another family home. "More is less when it comes to lifestyle. Moving into the inner city, it's the lock-and-go lifestyle, where strata takes care of the maintenance so owners can

simply lock their doors and head off to travel the world."

According to Greg McKinley, Director at Richardson & Wrench Elizabeth Bay/Potts Point, baby boomers are still downsizing. "We're still seeing a lot of people come out of big homes and buy apartments, so I don't see it as an affordability issue. I think it's more of a lifestyle issue and whether they're looking for that lifestyle or not."

## Lobbying for retirees

Change is long overdue.

"REINSW is already calling for tax reform," REINSW CEO Tim McKibbin said.

When it comes to the government, there is plenty that can be done to help keep baby boomers financially secure and in a property that they own.

Nowadays, people are retiring later, especially with the pension age climbing. But there is little support for older workers to stay in their jobs or find more suitable ones, particularly part-time employment.

A reconsideration of superannuation rules may be necessary, allowing a higher contribution for people over a certain age or threshold to help boost retirement savings.

In Victoria, there is a stamp duty concession for pensioners who meet the criteria, based on certain thresholds. Closer to home, the ACT has recently reduced its tax rates for transfer stamp duty.

"Stamp duty in NSW has not been reviewed for more than 40 years. NSW should look to follow the ACT, which, on top of the tax rate reduction, has also brought in incentives for the over sixties," Mr McKibbin said. "High stamp duty charges inhibit growth, especially when it

comes to the retirement sector. For retirees living off superannuation or a pension, stamp duty is a huge burden. REINSW has long lobbied for changes to stamp duty."

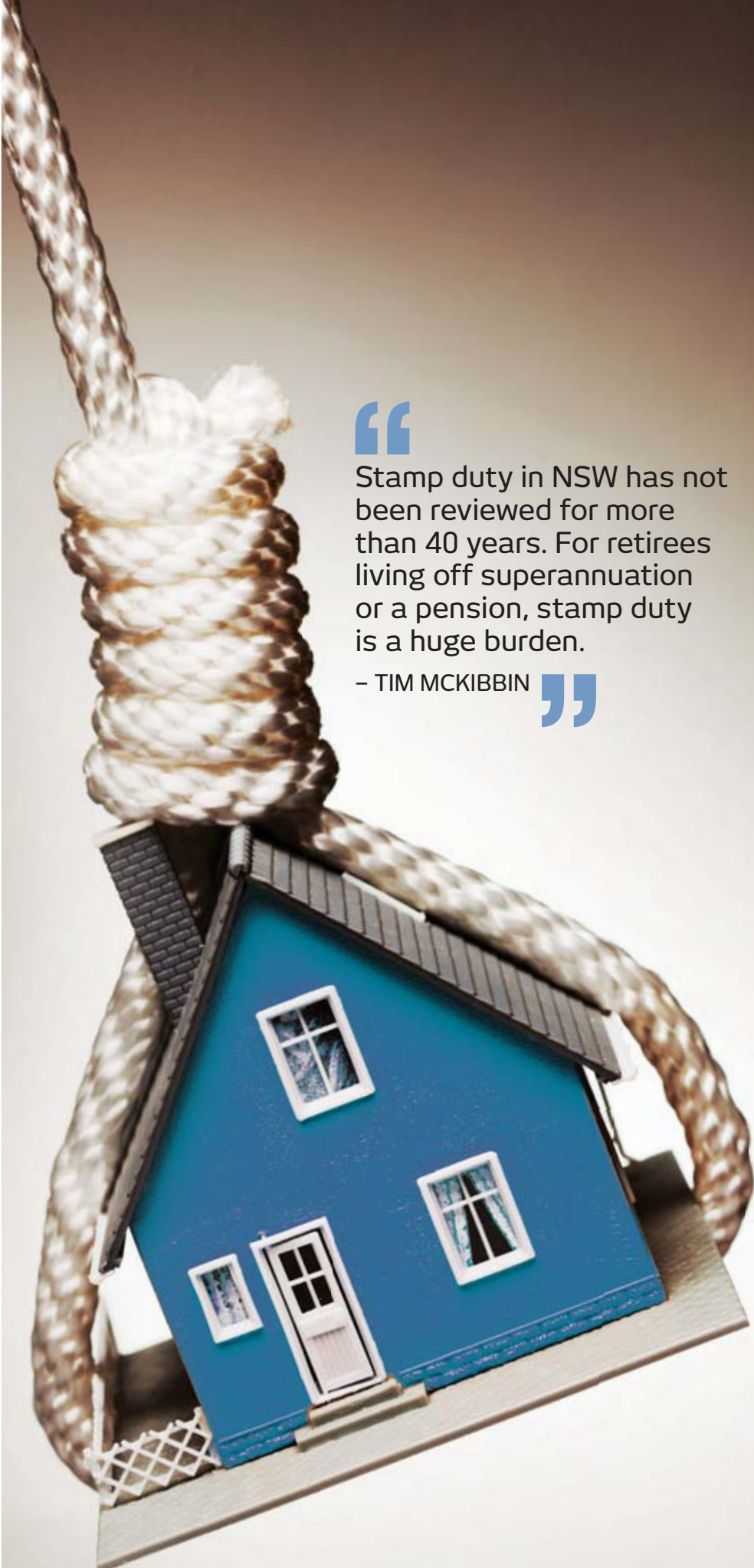
If NSW followed Victoria and the ACT, pensioners and retirees may be able to stay in the property market longer.

Mr Gunning goes so far to say that two concessions may be needed. A stamp duty concession, much like Victoria, for people living off their superannuation or pension, and a higher concession for those who are willing to move to a regional area. ♦

## EXPECT THE UNEXPECTED?

When it comes down to it, it's all about having realistic expectations. Moving from a house in a less affluent suburb into an apartment in an affluent suburb is not going to leave a buyer with much cash to spare.

Downsizing in the same area should be a fairly simple thing to do, as long as buyers are prepared. According to Mr McKinley, even moving in the same suburb can be quite costly, if there are unrealistic expectations. "If someone is moving out of a three-bedroom house with two bathrooms, a double garage and an outdoor pool and going into a two or three-bedroom apartment [in the same or similar postcode], there will be cash left over. But remember, even in the same area, you can't compare a three-bedroom house with a luxury waterfront apartment – they're two different products."



“

Stamp duty in NSW has not been reviewed for more than 40 years. For retirees living off superannuation or a pension, stamp duty is a huge burden.

- TIM MCKIBBIN ”

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TRUST  
ACCOUNT  
DOESN'T  
GO ON  
HOLIDAYS...**

**BUT YOU  
CAN.**



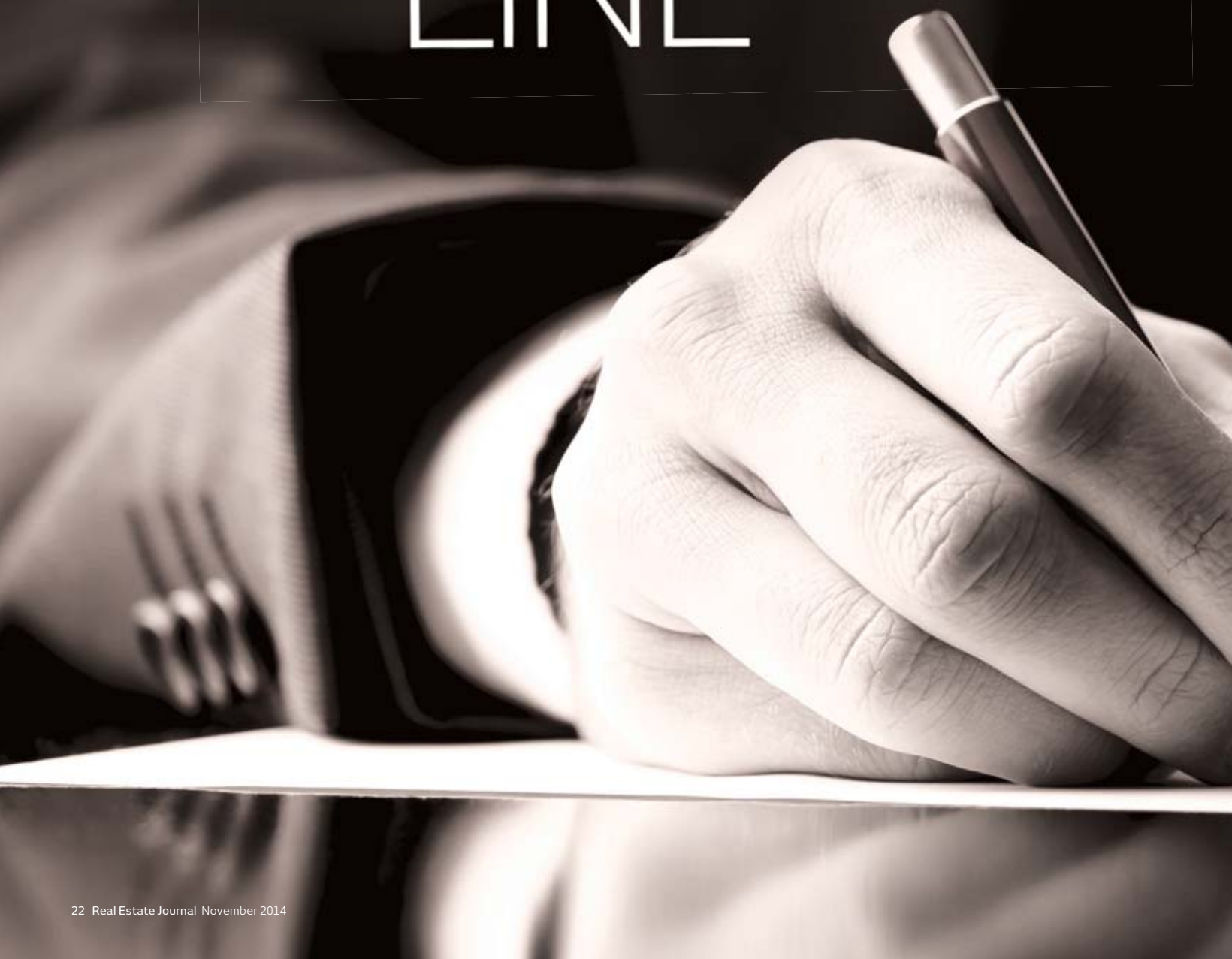
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# *Sign on* THE DOTTED LINE





**The two critical moments in a sale are exchange of contracts and settlement. Agents often have a vital role in making exchange happen. If the agent gets it wrong there may be serious consequences for the parties and for the agent.**

The Property, Stock and Business Agents Act 2002 permits agents to “fill up” and participate in the exchange of contracts for the sale of residential property if expressly authorised to do so by their client or their client’s solicitor. The Act also makes it clear that if the agent acts negligently or in an unauthorised way, the agent is liable to someone who suffers or incurs loss, damage or expense.

Emil Ford Lawyers Partner, Garry Pritchard, described a situation that arose in which an agent exchanged a contract at auction in circumstances where the purchaser was a company. The agent sent the contract to the vendor’s lawyer and the execution by the purchaser was two squiggles on the front page above “Purchaser”, rather than a verified signature.

“As a result, it was unclear whether there was a binding contract in place or not,” Mr Pritchard said.

In order to secure authorised signatures to complete the sale execution, Emil Ford Lawyers dealt directly with the purchaser’s lawyer to prepare additional paperwork. A form endorsed by the directors confirmed they had signed as directors or director/secretary of the company, and they authorised the vendor lawyer to amend the contract, adding those titles under their signatures in order to ensure the contract was effective and binding.

### Filling up contracts

A contract that is filled out and executed correctly provides the parties with confirmation of key details such as the price, the amount of the deposit and what is included in and excluded from the sale.

While real estate agents are permitted by legislation to fill out items in the box on the front page, it may be a safer option to engage legal advice to do so.

In the case of companies making the purchase, it is important to make sure the people signing have the authority and confirmation that they are able to do so. Typically, company delegates will either bring a company register or a letter stating they are directors and are elected to represent the company. The names of directors and company secretaries can also be verified by an ASIC company search.

“If that didn’t happen,” REINSW President Malcolm Gunning said, “it’s the agent who is remiss.”

According to Mr Gunning, agents should not take anything for granted. Where the property is sold at auction, much of the necessary information is supplied upfront before bidding takes place. However, where the sale is by private treaty, agents might want to ask for identification and, if applicable, proof of authority to sign the contract.

### The new Contract for Sale and Purchase of Land

Since the last update in 2005, the new contract, now called the Contract for Sale and Purchase of Land has been a long time coming.

The Contract for Sale and Purchase of Land (Contract) is generally re-issued about once every four years; legislation changes frequently, courts are regularly handing down decisions regarding conveyancing disputes, and technology impacts the way agents operate. All of these factors make it vital that the Contract be kept up to date.

Legal author and commentator, Tony Cahill, who recently spoke to members at the REINSW 100+ Conference, said that the nine-year wait for a new version is unusual.

“The main reasons that the Contract has not been updated earlier related to developing a more efficient and user-friendly way to deliver the Contract and the introduction of electronic conveyancing in New South Wales. E-conveyancing is already operating for mortgages, and should be extended to sales and transfers of ownership over the next few months. The Contract will deal in depth with the ‘nuts and bolts’ of the process.”

### The big impacts

Mr Cahill noted that there are several changes to the new Contract that agents should look out for.

First, there will be a space on the front page of the Contract to mention the buyers’ agent.

Since the last edition of the Contract was issued, buyers’ agents have become more prominent in the industry. The buyers’ agent is also nominated as the deposit holder where there is neither a vendor’s agent nor a vendor’s solicitor or conveyancer.

“Second, the current list of pre-printed inclusions on the front page of the Contract now includes solar panels,” Mr Cahill said. “They have become much more popular in the last nine years and there are different arrangements for them; sometimes they are owned outright by the vendor of the property and sometimes they might be owned by the provider of energy.”

Third, there will be some changes to terminology used in the ‘list of documents’ on page two.

Two areas with the greatest impact on agents and the listing process relate to swimming pools and the operation of the *Home Building Act*. “The swimming pools changes commence on 29 April 2015. The *Home Building Act* changes have passed Parliament, but have not yet commenced. Both areas are complex and vendors should seek legal advice about their impact.”

There will also be a ‘pick-a-box’ choice dealing with using a deposit bond or guarantee instead of paying the deposit by cheque.

Mr Cahill recommends that when an agent receives a contract, the best starting point is to make sure all the documents that are supposed to be attached are, in fact, attached and that the contract is otherwise complete. If in doubt, seek the help of a legal expert. ♦

*If you have any questions regarding the new Contract for Sale and Purchase of Land, call the REINSW Helpline on (02) 9264 2343 or email [helpline@reinsw.com.au](mailto:helpline@reinsw.com.au)*







## TICKING BOXES

Legal author and commentator **Tony Cahill** shares his top tips on completing a contract.

### Black box

The 'black box' is a critical area. One common problem is where the purchaser's details are not complete, or conflict with what the purchaser has told their lender. For instance, a purchaser might tell the agent his name is 'Tony Cahill', but has made the loan application as 'Anthony Francis Cahill'. That discrepancy will cause problems down the track. Agents should also double check the list of inclusions and exclusions, as these may change as part of the negotiations about price.

### Identification

One of the areas where electronic conveyancing is going to make an impact is a greater emphasis on party identification. Agents should adopt the same sort of procedures to identify purchasers under private treaty that they use for prospective bidders in an auction. Where a party is signing under a power of attorney, it is vital not only to identify the attorney but also to see the document itself and make sure it gives power for the attorney to sign.

Finally, double check that both counterparts are identical. In one case, the person supervising the exchange did not notice that pages three to 12 of the standard form were missing from one copy of the contract. As a result, no contract was formed, and both the vendor and the purchaser successfully sued for negligence.



CONTRACT

# Keep calm, it's *almost Christmas*

With Christmas just around the corner, make sure you're prepared.

BY CHELSEA WALLIS

Christmas parties are a chance for a business to reward its team for their dedication throughout the year. However, it's also an opportunity to solidify a positive company culture and strengthen team bonds. With the right combination of tinsel and cheer, the Christmas party will be talked about for weeks to come for all the right reasons.

## Community building

For Graeme Smith, the Principal at Harcourts Kangaroo Valley, the event is an opportunity for the team at his small agency to get together outside of the normal confines of work. This means part-time employees who don't necessarily see each other during work hours are given the opportunity to get together and enjoy the festivities.

"We try to involve everyone to some degree in the business because a big part of your life is work," he said, "and sometimes you see more of your work colleagues than you do of your partner."

## Listen to your staff

The best Christmas parties are a reflection of the team, and what works for one agency may not be considered rewarding in another.

Mr Smith said his agency attempted a gift exchange one year, but it wasn't

their style and it was dropped the following year. Instead, last year they planned a long intimate lunch at a nice restaurant that better suited the company community, and they'll likely do the same again this year.

He also involves his Business Manager in the planning and takes suggestions from key office staff on what they prefer. Getting input from employees as well as asking for feedback after the event helps ensure its success.

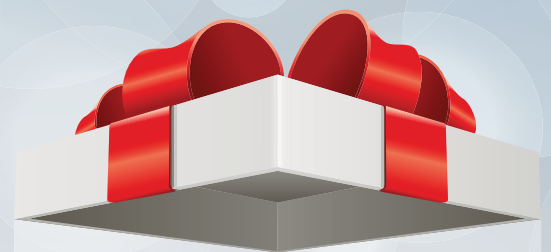
## Acknowledging alcohol

When the reward includes alcohol, there is always the risk that someone will have a bit too much fun.

"If you do these things in the evening they can run on, whereas a lunch function on the weekend tends to self-constrain just by the timing," Mr Smith said.

Another way to set the pace for the party is to deliver the thank you speech once everyone arrives. Invite everyone to enjoy some beer and wine with a joke and a laugh while setting down some expectations.

A good Christmas party should acknowledge the hard work everyone puts in to make an agency great, as well as keep great people with your agency year after year. ♦



## *Toolkit*

### **PARTY PLANNING**

#### **START ASAP**

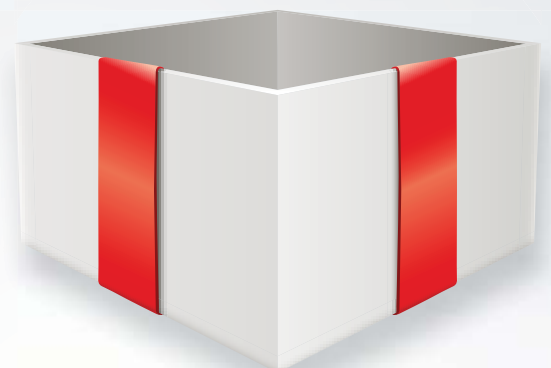
Venues fill up quickly, so make decisions early. Set a budget and an invite list, and make sure you consider several venues just in case.

#### **RUN SHEET**

Is Santa going to make an appearance at your party? Keeping a run sheet will ensure you fit all your activities into the event, from a gift exchange and potluck to meal service and the DJ.

#### **SPEECHES**

Do plan on saying a few words to your team. It's important to thank everyone in attendance and recognise the hard work that can't be completed without them. Speak early, be brief and when in doubt, the only one you should make fun of is yourself!



# Q

## Where do you stand if a Tenant is injured or tragically dies in a property you manage?



With injury comes stress and most often litigation. Managing Agents have an obligation to warn both Landlords and Tenants of any dangerous defects in rented premises that the Agent should or OUGHT to be aware of. The challenge is Property Managers are not qualified to identify most hazards that can result in harm and potential legal damages claims against your business.

# A

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You can't always control whether Landlords will undertake repairs in their property as required, however you can take immediate steps to reduce your Agency risk.

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- ✓ Landlord education about the importance of tenant safety
- ✓ Safety inspections and reports by trained professionals
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- ✓ Automated reminders to all Landlords, Trades & tenants
- ✓ One click creation of audit trails to show best practice
- ✓ Assurance nothing will "slip through the cracks"
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[bdhsolutions.com.au](http://bdhsolutions.com.au)



STEPHEN FRANCIS

ROSS HEDDITCH

# Training calendar

## DECEMBER 2014

**1 Dec • SYDNEY**  
The D-E-F of Compliance ●  
(9.30am-1.30pm)

**1 – 5 Dec • SYDNEY**  
Certificate of Registration Course ●  
(9.00am-5.00pm)

**2 Dec • SYDNEY**  
An Agent's Guide to Tax and Property Investment ●  
(9.30am-1.30pm)

**3 – 5 Dec • SYDNEY**  
People Management Essentials ●  
(9.30am-4.30pm)

**8 Dec • WEBINAR**  
Overview of changes to the Contract for Sale  
(10.00am-11.00am)

**8 – 11 Dec • SYDNEY**  
Property Sales Essentials ●  
(9.30am-4.30pm)

**8 – 12 Dec • SYDNEY**  
Certificate of Registration Course ●  
(9.00am-5.00pm)

**12 Dec • SYDNEY**  
Managing Your Property Management Workplace ●  
(9.30am-1.30pm)

**15 – 17 Dec • SYDNEY**  
You and the Law Essentials ●  
(9.30am-4.30pm)

**15 – 19 Dec • SYDNEY**  
Certificate of Registration Course ●  
(9.00am-5.00pm)

**18 Dec • SYDNEY**  
Prepare for Selling Like Never Before ●  
(9.30am-1.30pm)



### Getting it right: Forms and New Legislation – 20 January

**Sydney** Refresh your knowledge on key areas of agency practice in this half-day course. Be brought up to date with all the latest legislation changes and learn how to work with Agency Agreements. Make sure you're compliant each and every time!

## JANUARY 2015

**12 – 16 Jan • SYDNEY**  
Certificate of Registration Course ●  
(9.00am-5.00pm)

**14 – 16 Jan • SYDNEY**  
Trust Accounting Essentials ●  
(9.30am-4.30pm)

**19 – 23 Jan • SYDNEY**  
Certificate of Registration Course ●  
(9.00am-5.00pm)

**20 Jan • SYDNEY**  
Getting it Right: Forms and New Legislation ●  
(9.30am-1.30pm)

**29 Jan • SYDNEY**  
WHS for Property Managers – In Practice ●  
(9.30am-1.30pm)

### WANT TO KNOW MORE?

You can find out more about all of our courses and register online by visiting [www.reinsw.com.au](http://www.reinsw.com.au)

Click on Course Schedule in the Training menu.

#### COURSE KEY

- Certificate of Registration Course
- Toolbox Series
- Real Estate Essentials Series

# Sponsoring the community

A family-run business, LJ Hooker Cessnock and Kurri Kurri definitely has the support of its local community. And who could blame the community, with all the wonderful things the agency does for them?



L-R: LJ Hooker CEO Grant Harrod with Bryce and Mellissa Gibson; LJ Hooker Bear.

Over the past year, LJ Hooker Cessnock and Kurri Kurri has been involved in no less than 23 charities. From comedy nights to spring fairs and even to teddy bear picnics, the agency jumps at every opportunity to help the community out.

“At LJ Hooker Cessnock and Kurri Kurri we take great pride in being involved in and supporting our local community,” General Manager Mellissa Gibson said. “We have 11 staff in total and we believe in giving back to the community that supports our business. We believe real estate is about people, not just property.”

The agency are proud sponsors of the Kurri/Weston Cricket Team, a team that Principal Bryce Gibson still plays for, the Cessnock Hornets Soccer Club, the Kurri Kurri Bulldogs Junior Rugby League Club and the Cessnock Goannas Rugby League Club.

“Our staff are local people, and we are proud to have such a strong involvement in the local community, whether it’s participating in the Kurri Kurri Nostalgia Festival, local sporting groups or local school fetes.”

Each year for local charities and cystic fibrosis, the agency raises in excess of

\$10,000. Plus, throughout the year, you’ll probably see Mr Hooker Bear at most local events.

In the past 12 months alone, LJ Hooker Cessnock and Kurri Kurri have held a barbeque and comedy night for cystic fibrosis, a high tea and pimp my bra event for breast cancer, a relay for life barbeque and a Christmas appeal among a raft of others.

And it’s not just fundraising that the agency is about. LJ Hooker Cessnock and Kurri Kurri have also been commended for their sustainability work by the Cessnock City Council.

The agency has done so much for the community that it recently won the International Community Relationship Award, beating out 750 other LJ Hooker agencies around the world. ♦

## YOUR STORY

We want to hear your stories!

If you, or a member you know, supports a charity, you can share the story in the ‘Last Word’. Email the editor at [jessica@mahlabmedia.com.au](mailto:jessica@mahlabmedia.com.au)



IN THIS  
YEAR:  
**1975**

Dealing with natural disasters is an important topic for real estate professionals – whether they’re impacting your workplace, home or clients’ homes. In 1975, the *Journal* looked at Cyclone Tracy.

1975 was a horrible year for agents in the Northern Territory, as the *Journal* discovered.

According to the March 1975 edition of the *Journal*, NSW real estate agents were counting themselves lucky compared to their REINT counterparts who survived Cyclone Tracy.

Darwin agents lost their homes, most of their possessions and most offices were severely damaged.

REINSW spoke to Mrs Cherry Murray, the first real estate personality to give an eyewitness account. Mrs Murray, an Assistant Secretary of the REINT, came to NSW for two weeks in January and said: “Most people were unaware of the cyclone warnings because they were out buying last minute food supplies and presents for Christmas. When we did hear the warnings we thought it was just another false alarm because we had become very complacent about cyclones turning away from Darwin at the last minute.”

Quite controversial in 1975, the September edition of the *Journal* also revealed that a woman, who had previously topped the Institute’s Licensing Course, became the leading sales person in the LJ Hooker Group.



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**Good people to know.**





## My View.

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There are many ways to market commercial property, but only one site gives your clients a data-enriched search process. At [commercialVIEW.com.au](http://commercialVIEW.com.au), you'll have access to the only industry-owned portal. We provide your clients with a complete property search tool at their fingertips; from comprehensive information on property sales and auction results, leasing and investing tips, to industry trends and up-to-date data.

Giving more value to our clients means giving you more valuable enquiries. **That's our view.**

commercial **view**  
com.au

your research starts here.