

# SUBMISSION

CONSUMER PROPERTY LAW REVIEW

Estate Agents & Conveyancers Options Paper

May 2017

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# ABOUT REIV

The Real Estate Institute of Victoria has been the peak professional association for the Victorian real estate industry since 1936.

Over 2,000 real estate agencies in Victoria are members of the REIV. These members are located in city, rural and regional areas.

The businesses employ more than 10,000 people in Victoria in a market which handles over \$100 billion of transactions totalling 30 per cent of GSP.

Members specialise in all facets of real estate, including: residential sales, commercial and industrial sales, auctions, business broking, buyers agency, property management, owners' corporations management and valuations.

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## Introduction

The REIV is the peak industry association for the Victorian real estate industry, representing the majority of the state's licensed estate agents and Agent's Representatives.

This options paper - encompassing the Estate Agents Act 1980 and associated legislation - is of significant importance to our members as it impacts directly on their licensing requirements and business practices.

With chapter committees dedicated to the sale of residential property, auctioneering, buyer's agents and property management, the REIV has consulted with members from multiple real estate specialisations to form our response.

The REIV has also sought input from its broader membership on educational standards and entry criteria for agents.

Greater regulation of the negotiation process for sales authorities is of significant concern to the REIV and our members. At present there is inadequate evidence to support the introduction of further regulation with a proposed cooling-off period likely to have negative consequences for vendors.

Existing legislation already requires agents to inform potential vendors that both their fees and marketing expenses are negotiable. In addition, feedback from members suggests low stock on market has resulted in increased negotiation between vendors and agents.

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# REIV Response

The following outcomes were gained from the member consultation process.

## Definitions

### Option 1 – Modernise and revise the definition of ‘estate agent’

#### 1. What other issues should be addressed in the revised definition of estate agent, and what is your evidence of the issue?

As outlined in our response to the Conduct & Institutional Arrangements Issues Paper, the REIV considers it crucial that the definition of an ‘estate agent or agent’ is revised to include those providing what amounts to estate agency work but are presently not covered. This includes people and businesses who offer to assist buyers and sellers of real estate in the selection of an agent and who may also claim to assist the vendor in dealing with that agent. The options paper states that these online sites are ‘concerned with providing ways for consumers of real estate services to navigate a complex market’, however these sites are deceiving consumers of real estate services by promoting their services as free, when in fact they are commissioned based. The REIV has already raised our concerns with the ACCC and Consumer Affairs Victoria regarding ‘Find an Agent-type’ sites, which we believe are engaging in deceptive and misleading conduct, and are in breach of Australian Consumer Law. Furthermore, the REIV considers these sites to be in breach of commission sharing disclosure requirements set out in the Estate Agents Act.

Given the prevalence of short-term rental accommodation and its emergence into the private rental market, the REIV strongly believes the definition of an estate agent should also incorporate short-stay providers such as Airbnb. These providers facilitate property lettings and collect and disburse rent – roles that are the traditional domain of an estate agent.

The REIV also considers it necessary for the definition to state that the properties that are the subject of the transaction are in Victoria. The current Act doesn’t say whether the agent, client or property has to be in Victoria.

Other definitions of concern not addressed in this option are Agent’s Representative and employ (in relation to the employment of any person as an Agent’s Representative). The REIV believes the definition of ‘Agent’s Representative’ in Section 4 also requires addressing. Under the Estate Agents Act, an Agent’s Representative is an individual, unlike an estate agent who can also be a corporation. In

addition, Section 16 of the Act makes it plain an Agent’s Representative can only conduct estate agency work as an employee of an estate agent. Unfortunately, sub-section (a)(i) of the current definition creates the impression an Agent’s Representative does not need to be an employee. This is because the definition includes the phrase ‘... or who acts for or by arrangement with...’. If an estate agent, for whatever reason, engages an individual, who has permission to work as an Agent’s Representative, to ‘act for’ or ‘by arrangement with’ it in conducting estate agency work, other than as an employee, the individual can only do so as a self-employed contractor. A self-employed contractor can only carry out estate agency work if they hold an estate agents licence. They cannot do so as an Agent’s Representative. For this reason, the REIV recommends the wording of sub-section (a)(i) be amended to rectify this by deleting the phrase ‘...or who acts for or by arrangement with...’.

### Option 2 – Remove the definition of ‘conveyancing business’

#### 2. Should section 4 of the Conveyancers Act be amended to clarify that ‘conveyancing work’ does not include legal work carried out for the purpose of preparing powers of attorney? Is there any other work that conveyancers should not be permitted to carry out?

As this question relates to conveyancers – not real estate agents – the REIV has opted to not provide a response.

#### 3. Should conveyancers be permitted to lodge adverse possession applications under the Transfer of Land Act 1958?

As [this question relates to conveyancers – not real estate agents – the REIV has opted to not provide a response.](#)

## Training & Work Experience

### Option 3 – New licence categories with varying training and work experience standards

#### Option 4A – Increase training standards for Agent’s Representatives

#### Option 4B – Confine the role of an Agent’s Representative

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## **Option 4C – Abolish Agent’s Representatives and provide an alternative work experience pathway**

### **4. What would be the costs to industry of requiring all licensees in charge to undertake additional training, as proposed by option 3?**

The REIV supports Option 3 as it recognises the need for Officers in Effective Control (OIEC) and sole traders to have a comprehensive understanding of business management and human resources, in addition to the traditional skill set of an estate agent.

Given there are at least 3,700 real estate agencies operating in Victoria, requiring licensees in charge to undertake an additional two prescribed units would involve substantial costs to the industry. It is envisaged that the additional two prescribed units would be at a cost of around \$750 per licensee in charge. Despite this, the REIV considers the benefits of improved business management and staff supervision to far outweigh cost implications associated with this option.

### **5. What transitional period do you think would be appropriate to provide estate agents who will need to apply for estate agent (licensee in charge) licences to undertake the additional 2 units of competency required to obtain a Diploma in Property Services (Agency Management)?**

Feedback from REIV members suggests one year is an appropriate transitional period for licensees in charge to undertake the additional two units of competency.

### **6. Which of options 4A, 4B and 4C is the best approach to address issues associated with agents’ representatives?**

As outlined in previous issues papers, the REIV believes there is a genuine need within the industry for higher entry standards and qualifications for estate agents, particularly Agent’s Representatives. Current entrance standards for Agent’s Representatives are inadequate in preparing them for the complex roles they perform within the industry.

The REIV’s preferred approach to address this issue is Option 4A – increase training standards for Agent’s Representatives. Higher entry standards for the industry will result in better prepared and appropriately trained Agent’s Representatives and ultimately greater protections for consumers of real estate services. As significant industry changes are likely to be implemented in the coming years – including amendments to five key pieces of property legislation – it’s imperative that the state’s Agent’s Representatives have a comprehensive understanding of legislation, regulations and best practice. Additional

prescribed units for all Agents’ Representatives would improve knowledge across the sector. Furthermore, the REIV believes higher entry standards for Agent’s Representatives may result in a greater level of retention within the industry. At present only a third of all students who complete the Agent’s Representative course go on to enter the industry.

### **7. Are Agent’s Representatives likely to experience any difficulties getting their employers to attest to their having achieved core work experience competencies?**

Practical experience and on-the-job training represents significant knowledge and skill development in the real estate industry. Feedback from REIV members does not suggest Agent’s Representatives will experience difficulties in getting their employers to attest to core competencies; rather it is more likely to result in greater supervision of these employees.

## **Conveyancers**

### **Option 5 – Increase training standards and strengthen work experience requirements**

### **8. In addition to the eight units of competency currently prescribed for conveyancers, what additional competencies should prospective licensees be required to complete, as part of an Advanced Diploma?**

As this question relates to conveyancers – not real estate agents – the REIV has opted to not provide a response.

### **9. What areas of competency should licence applicants be required to provide evidence of, to meet work experience requirements?**

As this question relates to conveyancers – not real estate agents – the REIV has opted to not provide a response.

## **Continuing Professional Development**

### **Option 6A – Mandate continuing professional development for estate agents, agents’ representatives and conveyancers**

### **Option 6B – Deliver an ongoing and targeted information and training program for estate agents, agents’ representatives and conveyancers, in partnership with industry associations**

The REIV’s preferred option in relation to continuing professional development is Option 6A – mandate continuing professional development for estate agents, Agent’s Representatives and conveyancers. CPD is central to

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increased professionalism within the industry and has long been a component of REIV membership.

As industry best practice and legislation is frequently updated, CPD related to those changes is important in ensuring agents remain informed, knowledgeable and best positioned to meet the expectations of consumers of real estate services. The industry has changed dramatically in the past decade and will continue to do so. Ongoing education and training across the sector will ensure agents remain up-to-date with current practices and will bring Victoria into line with NSW, Western Australia and Tasmania where CPD is mandated.

Furthermore, if CPD is to be mandated, the quality of real estate training being carried out by Registered Training Organisations (RTO's) will also need to be monitored. The quality of this training is currently variable across different providers and is not consistently of the highest standard. A related issue – which is currently having a considerable impact on the industry – is mutual recognition laws between Victoria and other states. The Institute would like to see these laws tightened to prevent poorly trained agents from being able to practice in Victoria, without demonstrating basic competency and knowledge of Victorian legislation.

### **Ineligibility & Disqualification Criteria**

#### **Option 7 – Strengthen ineligibility and disqualification criteria in the Estate Agents and Conveyancers Acts**

The REIV supports this option as it will prevent unsuitable individuals from entering the industry, which will improve the reputation and conduct of agents in general. In addition, the REIV welcomes stronger ineligibility and disqualification criteria in relation to persons who have been found guilty of unlicensed trading offences.

### **Permission application process**

#### **Option 8 – Tighten threshold requirements for permission applications under the Estate Agents Act and Conveyancers Act**

**10. Are there additional circumstances (other than those proposed in option 8) in which estate agents, agents' representatives and conveyancers should be restricted from applying for permission to be licensed or employed?**

While the REIV supports tightening threshold requirements for permission applications, feedback from members indicates these should be further limited to those with prior industry experience and a written job offer.

### **Professional Indemnity Insurance**

#### **Option 9A – Require conveyancers to hold professional indemnity insurance in order to practise**

#### **Option 9B – Require conveyancers and estate agents to hold professional indemnity insurance in order to practise**

#### **Option 9C – Require conveyancers and estate agents to obtain professional indemnity insurance in order to be eligible to be licensed**

**11. What is the appropriate level of monetary coverage for any one claim that should be specified for professional indemnity insurance for estate agents?**

The REIV's preferred option is 9C – require estate agents and conveyancers to obtain professional indemnity insurance in order to be eligible to be licensed. The REIV believes holders of an estate agents licence – individual or corporate – should be required to hold professional indemnity insurance unless they are working exclusively as the employee of another licensed estate agent or are non-practising.

The REIV suggests a minimum cover of \$5 million for any one event or occurrence. As a condition of membership, REIV members are required to hold a minimum cover of \$2 million per claim and not less than \$6 million in the aggregate for all claims made during the period of insurance.

Mandating personal indemnity insurance for all agents will enhance consumer confidence; in particular should a claim against the agency be lodged seeking financial compensation/damages, indemnity insurance could assist.

### **Office Management**

#### **Option 10 – Amend the Estate Agents Act and Conveyancers Act to facilitate remote supervision of estate agencies and conveyancing businesses**

**12. Are there any specific risks associated with removing requirements for physical supervision of an estate agency or conveyancing business that should be addressed?**

The REIV supports Option 10 as advances in modern technology no longer necessitate the need to prescribe regular and substantive personal attendance of the OIEC at the agency office. Feedback from REIV members indicates the manner in which an OIEC carries out his or her day-to-day statutory responsibilities should be at their discretion. The Estate Agents Act should merely set guidelines, not prescribe their application.

Given OIEC are responsible for overseeing and training

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of Agent's Representatives, removing the requirement for onsite branch managers may reduce the training and supervision of inexperienced agents. The OIEC may have policies and procedures in place but if there are no licensed agents located on the premises, these will be considerably harder to enforce.

### Officers in Effective Control (Estate Agents Act)

**Option 11 – Strengthen the duties of those who run estate agency businesses, require an outgoing OIEC to be replaced within 30 days and introduce the capacity to suspend a licence where an outgoing OIEC is not replaced**

The REIV supports Option 11, in particular the implementation of harsher penalties for OIEC who do not comply with their legal obligations. Furthermore, on an offence being proven, the Director of CAV should be required to conduct an enquiry into whether that person is fit to hold an estate agents' licence.

Given the importance of an OIEC in ensuring legislative compliance, the REIV supports the ability to suspend a licence where an outgoing OIEC is not replaced. An extension beyond the 30 day period should be at the discretion of the BLA.

As outlined earlier, requiring an OIEC to hold a Diploma of Property Services will also improve and facilitate the proper conduct of estate agency work and office procedures.

### Licensing Issues Specific to Conveyancers

**Option 12 – Establish a voluntary licence suspension process**

**Option 13 – Amend the Conveyancers Act to provide for automatic licence cancellation following non-payment of annual fee and failure to provide annual statements**

**13. Is the three year timeframe proposed by option 12 appropriate, or do you have an alternative suggestion?**

As this question relates to conveyancers – not real estate agents – the REIV has opted to not provide a response.

### Roles & Responsibilities of Estate Agents

**Option 14 – Amend professional conduct rules to include specific rules relating to property management**

The REIV does not believe the Estate Agents Act should create a multiplicity of offences for poor behaviour. Poor

behaviour in any area of real estate practice – including property management – should carry general sanctions. Existing legislation requires agents to act fairly and honestly in their dealings with the public.

### Negotiating the Sales Authority

**Option 15 – Provide a 'cooling-off' period for sellers who have entered into sales authorities for residential properties**

**Option 16 – Require estate agents to provide sellers of residential property with a fact sheet on sales authorities**

**14. Are there any other categories of sophisticated sellers who do not need the benefit of the protections offered under options 15 and 16?**

Feedback from REIV members indicates no support for Options 15 or 16. Both options are flawed and will not improve the sales process for sellers. The REIV does not believe legislation is required to regulate the conduct of agents when negotiating sales authorities. Under existing legislation, agents have a statutory obligation to inform sellers that their fees and marketing expenses are negotiable. The terms/conditions of the sale authority are a matter of contractual negotiation between vendor and agent. If vendors do not agree with the terms or conditions, it is their prerogative to negotiate better terms or engage another agent.

Option 15 will have the unintended consequence of placing excessive pressure on vendors, particularly as competing agents may try to encourage the vendor to cancel the authority during the cooling-off period. In addition, if an exclusive contract is signed on a Friday, a cooling-off period would be to the detriment of the vendor as it would delay the commencement of a marketing campaign by a total of five days. This will significantly disadvantage vendors who may need to urgently sell their property due to a change in circumstance. Furthermore, it's important to note sophisticated sellers are already exempt from complying with the Estate Agents Act.

**15. Is a three business day period sufficient for the cooling-off right proposed by option 15? If not, what is the appropriate period of time?**

As outlined above, the REIV does not support the introduction of a cooling-off period for sale authorities and urges Government to reject this option. There is inadequate evidence to suggest agents are pressuring sellers into signing an agreement and a three-day cooling off period would not provide sellers with any further information as

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to the level of service they can expect to receive from that agent.

General sale authorities are not subject to a time limit, and as such the vendor is able to cool-off from the contract at any time. In this way, a cooling-off period is redundant for general authorities. In addition, the REIV's information service already recommends sellers have at least three agents from competing agencies appraise their property prior to selecting an agent.

Feedback from REIV members suggests the introduction of a cooling-off period will not achieve the desired outcome of providing additional protection for sellers. In fact, a cooling-off period is likely to result in vendors being placed under increased pressure by competing agents encouraging them to cancel the authority.

**16. Would there be merit in requiring sellers who have entered into sales authorities to 'opt in' to those authorities within three days, rather than providing an 'opt out' mechanism through the proposed cooling-off period?**

The REIV does not see any merit in requiring sellers to 'opt in' to a sales authority. A seller who has signed an exclusive sale authority has already 'opted in'. As per our responses in the above questions, the REIV does not support Option 15 as it will slow down the sale process and will further confuse vendors.

**17. What other information would be relevant to include in the fact sheet proposed by option 16?**

The REIV opposes Option 16 as it would not require all sales authorities to be in a prescribed form. This would reduce consumer protection as sellers wouldn't know if the authority they were signing was a standard agreement or if additional clauses had been added. Given the majority of the information on the proposed fact sheet is already included within the REIV/LIV sale authority, this option provides no additional consumer benefit but would add red tape to the sales process.

## Financial Benefits to Agents

**Option 17 – Limit disclosure requirements under section 49A of the Estate Agents Act for 'sophisticated sellers'**

The REIV does not support Option 17 as sophisticated sellers are already exempt from complying with the Estate Agents Act.

**Option 18 – Amend section 50 of the Estate Agents Act to enable commission to be retained in certain**

**circumstances**

The REIV supports Option 18 as it addresses the need to distinguish between total failure to comply with Section 49A and technical or partial non-compliance, which may result in no consumer detriment being suffered by a client.

**Option 19 – Amend section 49A to clarify that agreements between estate agents are not subject to disclosure requirements**

Feedback from REIV members suggests neither Section 49A nor Section 50 should apply to agreements between agents, as agents do not require the same level of protection as consumers. In this way, the REIV does not support Option 19 as other conditions under Section 49A would continue to apply to agent-to-agent agreements.

**Option 20 – Provide for changes to commission-sharing arrangements to be disclosed**

The REIV does not support this option as it fails to address the unworkable nature of existing Section 48 legislation. Section 48 sub-section (2) is impractical as it requires that "before obtaining a person's signature to an engagement or appointment to do any estate agency work ... the agent must ensure that the person is given a [commission sharing] statement." If that is not done, there is a blanket prohibition on sharing commission: Section 48(4).

If a commission arrangement first arises after an engagement or appointment is signed – as it frequently does in practice – the only way in which the arrangement can work (and Section 48 be complied with) is for an existing engagement or appointment to be cancelled and for another, with an accompanying commission sharing statement, entered into. Unfortunately, this options paper does not demonstrate an understanding of the practical implications of this legal requirement.

The REIV recommends Section 48 (2) be amended to delete the present, mandatory requirement that a commission sharing statement must be given at the time an authority is signed. In its place there should be a requirement for a commission sharing statement to be provided at the time a commission sharing arrangement is agreed, and if an agreement changes, for a further statement to be provided. This solution will address the unworkable nature of existing legislation and ensure compliance. Section 48(4) will also require consequential amendment.

**Option 21 – Remove the ban on commissions under section 55 of the Estate Agents Act, but introduce additional protections for sellers**

**18. Does a 21 day cooling-off period provide sufficient**

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time (particularly for sellers in rural areas) to access independent legal advice on a sale?

Feedback from REIV members indicates a 21 day cooling-off period is excessive, particularly as modern technology has enabled sellers (even those in regional areas) to access independent legal advice relatively quickly. The REIV supports Option 21 on the proviso that the cooling-off period is reduced to five business days.

**Option 22A – Retain and strengthen the prohibition on retaining rebates, improve disclosure provisions and clarify the meaning of ‘benefit’**

**Option 22B – Permit estate agents to retain rebates provided they fully disclose the rebates to their clients, and clarify the meaning of ‘rebate’**

In regards to rebates, the REIV’s preferred option is Option 22B as it is consistent with the approach taken in other jurisdictions. The REIV recommends the word ‘rebate’ be replaced with ‘benefit’ and include any known benefit at the time of signing. In addition, disclosure of any benefits should not require a monetary amount to be listed. This would ensure grey areas such as frequent flyer points and online marketing incentives would be disclosed to clients.

### **Professional Conduct Rules - Payment of Commissions (referral fees)**

**Option 23A – Prohibit conveyancers from paying commissions in return for client referrals**

**Option 23B – Prescribe the form for disclosure of commission payments in return for client referrals**

**19. Is there value in conducting research on effective consumer disclosure?**

As this question relates to conveyancers – not real estate agents – the REIV has opted to not provide a response.

### **Cost Disclosure**

**Option 24 – Improve existing costs disclosure provisions in the Conveyancers Act**

**20. What would be a ‘significant change’ in legal costs that a conveyancer should disclose?**

As this question relates to conveyancers – not real estate agents – the REIV has opted to not provide a response.

### **VCAT Inquiries & Alternative Approaches to Address Poor Conduct**

**Option 25A – CAV to be given limited disciplinary powers**

**Option 25B – CAV to take over VCAT disciplinary functions**

**Option 25C – A central licensing, regulatory and disciplinary body in CAV**

The REIV does not consider CAV to be the appropriate body to regulate the real estate industry, particularly given its ‘consumer’ focus which often excludes consumers of real estate services such as landlords. The REIV’s preferred option to address poor conduct by agents is Option 25C, however the REIV considers the central licensing and regulatory body should be overseen by either the BLA or the Small Business Commissioner – not CAV. It is sensible and logical for the functions of the BLA, which is currently responsible for licensing, to be expanded to include regulation and discipline.

### **Penalties**

**Option 26 – Undertake a full review of the penalties under the Estate Agents Act**

Given penalties under the Estate Agents Act are already governed by penalty units, which are adjusted annually, the REIV does not believe there is a genuine need to review all penalties under the Act. In addition, the REIV does not believe penalties for estate agents should be aligned with those for conveyancers; particularly given conveyancers are often relied upon a source of legal advice and agents are not.

### **Placing Trust Money in Interest-Bearing Accounts**

**Option 27 – Enable conveyancers to deposit trust money in interest-bearing controlled money accounts**

### **Offences Relating to Trust Accounts**

**Option 28 – Review and update trust account offences and penalties in the Estate Agents Act**

While the REIV supports Option 28, the Institute considers it crucial that the requirement to prove an element of fraud under Section 91 of the Estate Agents Act remains. The removal of this requirement would result in the legislation capturing those who had made a clerical error rather than deliberate fraud, such as money transferred to an agent’s personal account.

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## Ban on Large Cash Deposits

### Option 29 – Prohibit estate agents from accepting large cash deposits for property sales

The REIV considers Option 29 to be unnecessary as deposits of \$10,000 or more are already captured by threshold transaction reports, which must be submitted to the Australian Transaction Reports and Analysis Centre (AUSTRAC).

## Auditor Requirements

### Option 30 – Amend the Estate Agents Act to enable government to introduce tighter controls on audits and auditors, if necessary

Feedback from REIV members indicates support for Option 30 as it would result in improved auditing of trust accounts.

## Keeping Track of Conveyancing Records Post Closure or Sale

### Option 31 – Establish stronger obligations for document retention post business closure or sale

#### 21. Should there be an obligation on conveyancers to return paper certificates of title to their clients, in the event that they close their business?

As this question relates to conveyancers – not real estate agents – the REIV has opted to not provide a response.

## Display of Licence

### Option 32 – Remove the requirement for physical display of a licence by an estate agent or conveyancer

Requiring estate agents to physically display their licence enhances consumer confidence, as it verifies the agent and agency's credentials. However, given the relative ease with which consumers can verify an agent's credentials online, the requirement to physically display a licence may no longer be relevant.

## Roles & Functions of the BLA & the Director of CAV

### Option 33 – Develop educational material explaining the roles and functions of the BLA and CAV

The REIV supports this option as there is a high level of confusion from the public regarding who is responsible for regulating the real estate industry.

## Roles of & Objectives for the EAC

### Option 34A – Retain the EAC, with amendments to refine its role and objectives

### Option 34B – Abolish the EAC

### Option 34C – Replace the EAC with a broader property industry advisory or reference group

The REIV's preferred option is 34A – retain the EAC, with amendments to refine its role and objectives. In order for the Estate Agents Council to effectively fulfil their role as advisers, there is a need for greater independence from CAV. The separation of duties is vital to ensure the EAC objectively represents the property industry. The REIV supports their role being refined to include the promotion of appropriate standards of conduct and providing advice to Government on industry developments.

## Victorian Property Fund

### Option 35 – Modernise and clarify the basis for VPF claims and extend the purposes to which excess funds can be applied

The REIV's strongly supports money from the Victorian Property Fund being utilised to improve the educational and training standards of estate agents and owners' corporation managers. Education is fundamental in increasing compliance and professionalism within the industry. The REIV has called for mandatory CPD and higher entrance standards for estate agents, Agent's Representatives and owners' corporation managers. Excess funds should be applied to the training of these agents, reducing the financial burden on individuals and employers.

## Modernisation of the Legislation

### Option 36 – Re-enact the Estate Agents Act and make minor amendments to the Conveyancers Act to reflect modern conveyancing practice

The REIV supports many of the proposed options in this paper, particularly if they eliminate red tape and promote the benefits of conducting estate agency work and compliance by electronic means. However, the Institute does not support some of the suggestions for "purposes" to be included in the Act.

The REIV considers the suggested purpose "help estate agents act in the best interests of consumers, and protect members of the public" to be misconceived. The primary role of an agent is to act in the best interests of his or her principal. This is a fundamental requirement of the law of

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principal and agent. Introducing the suggested purpose will create a conflict of interest. This is undesirable and unnecessary. Consumers and members of the public have the protection of the Australian Consumer Law and Fair Trading Act, enforced by CAV, in their dealings with estate agents.

In addition, the REIV has serious concerns relating to the suggested purpose “regulate those acting for others in the sale, purchase or leasing of land”. Who are “those”, precisely? Whoever they may be, it is likely they are already regulated by existing laws, including the Australian Consumer Law and Fair Trading Act. The REIV does not consider a purpose of this nature is appropriate for inclusion in a modernised Estate Agents Act.

## Summary

As a long-term advocate of real estate agents in Victoria the REIV supports greater educational standards for OIECs, licensed estate agents and Agent’s Representatives.

Improved training and entry criteria will increase professionalism across the industry, delivering improved protections for users of real estate services.

The REIV thanks Consumer Affairs Victoria (CAV) for the opportunity to provide input to the Estate Agents & Conveyancers Options Paper.

We look forward to liaising with Government throughout the ongoing Consumer Property Law review.

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