

FINAL SUBMISSION by Brian Cannan Auctions Pty limited, trading as Think Real Estate to Panel Reviewing The Training of New South Wales Property Services Industry.

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Introduction

Think Real Estate is a nationally Registered Training Organisation (No 91262). It has the qualification CPP40307 Certificate IV in Property Practice (Real Estate) on its scope in addition to the unit of competency CPP3019B Communicate with clients as part of agency operations. Think Real Estate also provides CPD training to the property industry and conducts approximately 200 CPD workshops each year throughout NSW.

In addition to being an RTO, Think Real Estate has an auction division that provides licensed auctioneers to real estate businesses throughout the wider Sydney basin region on a weekly basis

Because of its RTO business and its interactions with agents as auctioneers and CPD workshops Think Real Estate is well placed to comment on the issues raised by the panel.

We have examined the discussion paper prepared by the Reviewing Panel and make the following comments

A. Comment on Issues Raised

1. Questions raised regarding standard of training delivery and assessment.

We are aware that there has been a concerted campaign in forums and the newspapers regarding the standard of training delivery and assessment of real estate courses in NSW. The comments, in our view, demonstrate a complete lack of understanding of the Australian Training Framework, National Training Packages, and their implementation by RTO's. Also we believe that the present framework of administration of RTO's and their training and assessment, through the Australian Skills Quality Authority (ASQA) is sufficient regulation to ensure compliance with training standards. While training and assessment by some RTO's may not be up to standard in the past, if this is brought to ASQA's attention (or NSW Fair Trading), then generally an audit of that RTO follows, which leads to censure if the RTO is non compliant in their training and assessment strategies. Censure can include order to meet compliance standards within a given time frame, fines or de-registration and cancellation of qualifications issued.

1.1 Are their additional risks that should be included in an assessment for Training?

We believe that the risks identified in the Consultation Paper should also include risks associated with property management matters. In particular, the handling of bond and rental monies, complaints, conflict resolution, repairs and maintenance as well as issues relating to the handling landlord's and tenant's responsibilities under a lease.

1.2 Are there other issues that should be considered in assessing training standards?

Many agents who obtain a real estate licence in NSW do not do it in order to open a business or act as a licensee in charge. They are more interested in either a. having a qualification that shows they are better than their opposition, or so that they may work on a commission only basis or c to be an auctioneer. They do not hold trust monies. Under the present licensing regime, they hold the same class of licence as a licensee in charge and there is no distinction between the two categories.

While it may be outside the panel's scope, we believe that the panel should consider in its recommendations that there should be a distinction made between licensed agents and licensees in charge, as the skill set to perform the two functions, while similar in many areas, are different when it comes to running a business. A licensee in charge has particular responsibilities in terms of supervising the staff they employ and also to the handling of trust monies, and we do not believe that these issues are handled adequately by the present required education standards.

One way to undertake this distinction is to maintain the present qualification requirements for a person to be licensed, and then have an endorsement on the licence that would allow the person to act as a licensee in charge. (this would be similar to the present endorsement of licenses that allows agents to act as auctioneers). Such endorsement would require the applicant to meet more stringent education requirements in that they would need to undertake further training at a Diploma Level in order to obtain the endorsement. If the Panel thought it relevant a time requirement for working in the industry as a licensed person could be added to the requirements for endorsement. See Appendix B for a suggested list of units of competency for endorsement to be a licensee in charge.

1.3 What do you think should be minimum education standards for each category?

We consider the following to be minimum standards for each category of

Certificate of Registration.

Registration	Compulsory Units
Real Estate Salesperson	The existing units plus CPPDSM4009B – Interpret legislation to complete agency work CPPDSM4015B – Manage agency and consumer risk New unit of competency – CPPDSMRE02 – Handle client funds as part of agency operations
Stock and Station salesperson	The existing units plus CPPDSM4009B – Interpret legislation to complete agency work CPPDSM4015B – Manage agency and consumer risk New unit of competency – CPPDSMRE02 – Handle client funds as part of agency operations
Strata manager or registered community manager	The existing units plus CPPDSM4009B – Interpret legislation to complete agency work CPPDSM4015B – Manage agency and consumer risk New unit of competency – CPPDSMRE02 – Handle client funds as part of agency operations
On site residential property manager	The existing units plus CPPDSM4009B – Interpret legislation to complete agency work CPPDSM4015B – Manage agency and consumer risk New unit of competency – CPPDSMRE02 – Handle client funds as part of agency operations
Business salesperson	The existing units plus CPPDSM4009B – Interpret legislation to complete agency work CPPDSM4015B – Manage agency and consumer risk New unit of competency – CPPDSMRE02 – Handle client funds as part of agency operations

Note: We are of the understanding that a new unit for Certificate IV being CPPDSMRE04 – Communicate effectively in the property industry is being added to the training package and we believe that it should replace CPPDSM3019B – Communicate with clients as part of agency operations, once the new unit is endorsed.

This would involve new entrants undertaking seven units of competency prior to being able to work in the industry. It should also be noted that the units recommended are the core units for the full qualification.

The rationale behind this extension of training is that while law and ethics are embedded in the existing Certificate of Registration units, there is no rationale provided to new entrants in the industry about the importance of law and ethics and the risks agents face in day to day operations, as well as fully explaining their responsibilities as the the handling of trust monies. The addition of the three proposed units would provide them a grounding without making entrance to the industry an unnecessary burden. We would argue that it is in the best interests of the industry not to make entry to the industry too difficult, as the present system requires the licensee in charge to have effective supervision of the staff they employ. Also Section 32 of the Property, Stock and Business Agents Act sets out the minimum requirements as to that supervision. The burden of ensuring staff are fully compliant in their day to day works should be with the employer, not the employee. The lack of proper supervision by some licensees in charge is indeed an issue that needs addressing as many of the complaints about adequate training, in our view is really about lack of adequate supervision.

At the present time a person cannot work for a licensee as a salesperson and or property management staff unless they hold the Certificate of Registration. Our consultation with industry has found that industry sees the requirement as a disincentive to businesses when employing good staff. We would argue that a system that allows someone to begin in real estate and then undertake the entry level course course, would be preferable to all concerned, and would add to the training experience of students as they could see the application of what they learnt more readily. To ensure the protection of consumers, we would recommend that a person who begins work in an agency has a probationary period between eight and 12 weeks in which to obtain the necessary qualification after they begin work in an agency to meet the certificate of registration education requirements. This would be sufficient time for someone to undertake study either in rooms, on line or via eLearning. This could be implemented by issuing a Qualified or Probationary Certificate of Registration that expires at the end of the training period unless a person produces the required evidence that they have successfully completed the course.

Education Requirements for Licensing

In terms of the education requirements to obtain a licence we propose the following.

(We will limit our comments to the real estate licence but the requirements for stock and station, strata and business should be similar.)

That the education requirements to obtain a real estate licence remain a Certificate IV in Property Practice (Real Estate) or its equivalent in the new training package. The units to be included to reflect the new training package. A copy of the new Certificate IV is in Table A attached and we have highlighted the equivalent units to the present Certificate IV.

That the education requirement of the new category “licensee in charge” the qualification CPP503XX Diploma of Real Estate Management.

This is a draft in the new training package, and the units it includes are in Table B. Again we have highlighted what we believe should be the units covered. Note also that there are common units to the Certificate IV so that in reality a licensee in charge would undertake training and assessment in ten extra units to obtain the qualification.

We would reiterate that all Certificate of Registration holder work under the direct supervision of licensees in charge and that their training in consumer protection issues should not finish with a formal course but rather continue in the workplace directed by the licensee in charge and include mandatory CPD (see Section 3).

2.1 The issue of people entering the property industry without any experience

2.2 What are the practical consequences of the absence of a time based requirement to enter the property services sector?

2.3 What does time based experience achieve?

In our experience that there would be very few people becoming licensed agents without workplace experience. When the present regime of training was introduced, RTO’s at face to face meetings with NSW Fair Trading and the NSW Department of Education Raised the issue of the dropping of the two-year work requirement as it was felt to be a retrograde step. We were informed that it was not required as a person who was deemed competent in the qualification would not require on the job training that was not a formal process as they were deemed to have all the required competencies. While there is merit in this argument it ignores that many of the skills required by an agent in order to undertake their work is developed and refined over

time. One requirement could be that for a person to undertake the qualification they need to be employed in the real estate workplace or have access to one. (in fact this is a requirement in our own Training and Assessment strategy). This would give formal structure to training and assessment over time and allow formal on the job training under the supervision of the RTO. The period for such employment would need to be at least twelve months.

If time based experience is linked to formal training, then there is a rationale for it. If it is not then it achieves little as there is no benchmark to judge what it achieves.

3. ON GOING TRAINING REQUIREMENTS for the property services industry

3.1 What needs do the current CPD requirements meet

There has been much written and said about mandatory CPD over the years since 2004 when it was introduced. As an RTO and auctioneers we have observed a marked improvement in the knowledge and experience of agents in NSW since the introduction of CPD. Agents today are better equipped in regard to Consumer Protection principles as well as changes in law and its interpretation. While some CPD providers may cut corners, most RTO's provide meaningful training and information to agents. For example, over the last 4 years we have provided CPD training on the following issues after consultation with industry

PROPERTY MANAGEMENT Staff

- Residential tenancies Act 2010
- Asbestos
- Natural Disaster Response
- Fraud Protection Guide Lines
- Window Safety
- Swimming Pool legislation
- Mould
- Preparing Tribunal cases

SALES and Administration Staff

- Misleading and deceptive conduct – Australian Consumer Law
- Compliance – everyone's responsibility
- Swimming Pools
- New auction regulations
- Fraud Protection Guidelines

- Buyer Management
- Negotiation
- 2014 Contract for Sale of land
- Underquoting Guidelines
- Listing property
- Changes to the PS&BA Regulation 2014
- Underquoting legislation – The new rules

3.2 What are the benefits of CPD and what are the costs to business?

We believe that continuing CPD is an effective way of keeping agents up to date with their responsibilities to both clients and customers. However, improvement could be made in the Commissioner's Guidelines for CPD. When Fair Trading identifies particular problems, such as underquoting, the CPD guidelines allows for the Commissioner to set down compulsory or mandatory subjects that CPD must cover in any one year. We see this as an effective way to keep agents informed of their responsibilities. This could have been used more effectively and in a more timely manner when the present issue of underquoting arose. We now have a change in the legislation when the real estate market has cooled and the underquoting issue goes away.

3.3 What are the problems or issues with the existing CPD regime in NSW?

While there is a cost to business in undertaking CPD we believe this cost is more than offset by the benefit to consumers and industry as a whole. Continual training maintains skills and knowledge. In fact, while the evidence is antidotel there appears to be a bigger problem with agents' behaviour in the jurisdictions where CPD is not mandatory than problems that arise in NSW.

One problem we do see, however, is the large number of trainers running CPD workshops on behalf of RTO's as an independent contractor. Many of these workshops/training courses are totally skills based and have no compliance element whatsoever. One training course we are aware of requires people to listen to recordings and then answer simple questions, and again no legislation or compliance training involved. We do see this as an issue as it as it lessens the impact of having mandatory CPD. The reason why this happens is that CPD training does not have to meet any recognised quality standard as such. In the ACT this issue is handled by making a component of CPD to be the training and assessment of a unit of competency from

the Training Package where a statement of attainment is issued. While this is one option there are others, such as being more specific as to what can be trained and by whom. In WA they have a system where all RTO's are required to submit details of the proposed courses and they are then approved by the regulator each year. Further WA has a system where the RTO uploads to the regulator's website the details of the CPD training that is undertaken by agents and compliance can be easily checked. We are happy to discuss this issue further as we believe it gets to the crux of the issue.

3.4 Are the current requirements relevant?

The present Commissioner's Guidelines for CPD are dated October 2013 and are largely the same guidelines issued in 2010. We believe to be relevant these guidelines should be updated at least yearly to reflect compliance issues identified by Fair Trading during their compliance audit activities. See comments re underquoting above. In the past fair Trading has published a list of the major risk areas in real estate practice, a copy of that list in in Table C.

While there is a cost to business we believe this cost is more than offset by the benefit to consumers and employers alike. Continual training maintains skills and knowledge and we see that as a benefit to all.

Who should provide training?

4.1 What are the current problems with the delivery and assessment of training for the property services sector?

One issue that has been raised by certain sections of the real estate industry is that some providers do not provide adequate training and assessment of the units of competency that make up the qualification requirements to be a real estate agent. The present training package (CPP07) leaves the interpretation of assessment practices largely to the individual RTO. However, a review of national training packages has identified this as a problem and the new training package due early in 2016 is more prescriptive in how an RTO is to assess competency. Also the Standards of Registration that govern the operations of RTO's, now sets now more prescriptive requirements both as to the Volume of Learning to be undertaken and also assessment requirements and evidence. It is our view that these changes, and there policing by ASQA, will go a long way, if not all the way to meet the issue raised in this area.

However, we repeat that many of the critical comments made by some commentators shows they do not understand the framework of Competency Training in Australia especially when it comes to Recognition of Prior Learning (RPL). A person who has successfully worked in the real estate industry for many years will need less training than a person just out of high school with no commercial experience. Many commentators ignore this point when commenting on the amount of training provided by RTO's.

We believe that the changes being made to the present training package, that is more specific in Assessment Practices, coupled with the 2015 NVR standards (i.e. the Standards that RTO's must meet), and the more proactive stance by ASQA auditors of compliance of assessment tools of RTO's, more than meets the issues raised by commentators that criticise the present system. We believe that Fair Trading should liaise with ASQA more, and also set up a formal system of consultation with RTO's and other stakeholders to allow the exchange of ideas and views. We believe RTO's as a group would be more than happy to address issues that Fair Trading considered were relevant for licensing purposes.

If there is any lapse in the present system, it is the failure by many licensees in charge to properly supervise their staff. We believe that our recommendation for a separate qualification for agents who wish to be a licensee in charge addresses this issue.

MUTUAL RECOGNITION

5.1 What are the key issues in relation to cross border operations of property and livestock achieve?

5.2 What are the current barriers to achieving mutual recognition?

5.3 How might we improve mutual recognition for auctioning of property and livestock?

The qualifications obtained in each state and territory to become a real estate agent differ in substance in some cases, but the main difference is that the underpinning law in each state where those qualifications are obtained is different to other jurisdictions. Because of this there is an issue of relevancy of qualifications gained in one state being relevant in another. While many of the skills and knowledge are the same, the underpinning law is not.

One issue we have as an RTO is that a Statement of Attainment issued by a provider in another state must be recognised by us under the NVR Standards. However, for that qualification to be accepted by the licensing authority any Statement of Attainment we issue must state that the

training and assessment was done using the underpinning law of that state. We get around the problem by accepting the Statement of Attainment issued in the other state, but then advising the candidate that the Statement we issue will not be accepted unless they undertake gap training covering NSW law.

Until laws across all states be governing real estate transactions and agents are unified we believe that mutual recognition should require that the candidate undertakes formal training that covers the underpinning law relevant to the state/territory they are requesting recognition in.

CONCLUSION

We are happy to discuss with the committee any issue raised in this paper further.

TABLE A

Proposed new Qualification CPP403XX Certificate IV in Real Estate replacing CPP40307 – Certificate IV in Property Practice (Real Estate)

Under the Training Package Students need to achieve this qualification, competency must be demonstrated in:

- 24 units of competency:
- 6 core units
- 18 elective units.

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

- 18 units from the elective units listed below
- 4 of the elective units may be selected from units originally packaged in Certificate IV or Diploma qualifications from the Property Services, Business Services, Financial Services Training Package or any other Training Package qualification or accredited course that contributes to a valid, industry - supported vocational outcome.

(We have marked in bold the the units we believe should be included. Students would need to choose two units from 4001, 4004 and 4020)

Core units

CPPDSMRE02	Handle client funds as part of agency operations
CPPDSM4007	Identify legal and ethical requirements of property management to complete agency work
CPPDSM4008	Identify legal and ethical requirements of property sales to complete agency work
CPPDSM4009	Interpret legislation to complete agency work
CPPDSM4015	Minimise agency and consumer risk
CPPDSM4080	Work in the real estate industry

Elective units

<u>BSBCMM401</u>	Make a presentation
<u>BSBHRM405</u>	Support the recruitment, selection and induction of staff
<u>BSBITS401</u>	Maintain business technology
<u>BSBLDR403</u>	Lead team effectiveness
<u>BSBLED401</u>	Develop teams and individuals
<u>BSBRKG304</u>	Maintain business records
<u>BSBSMB404</u>	Undertake small business planning
<u>BSBSMB406</u>	Manage small business finances
CPPDSM3008	Maintain and protect condition of managed properties
CPPDSM4001	Act as a buyer's agent
CPPDSM4002	Apply knowledge of state or territory legislative and regulatory framework to complete agency work
CPPDSM4003	Appraise property

CPPDSM4004	Conduct auction
CPPDSM4005	Establish and build client-agency relationships
CPPDSM5006	Establish and manage agency trust accounts
CPPDSM4010	Lease property
CPPDSM4011	List property for lease
CPPDSM4012	List property for sale
CPPDSM4013	Market property for lease
CPPDSM4014	Market property for sale
CPPDSM4016	Monitor and manage lease or tenancy agreement
CPPDSM4017	Negotiate effectively in property transactions
CPPDSM4018	Prepare and present property reports
CPPDSM4019	Prepare for auction and complete sale
CPPDSM4020	Present at tribunals
CPPDSM4022	Sell and finalise the sale of property by private treaty
CPPDSM4029	Appraise business
CPPDSM4032	Arrange valuation of facilities and assets
CPPDSM4036	Broker sale of industrial, commercial and retail property
CPPDSM4041	Contribute to development of a tenancy mix strategy
CPPDSM4045	Facilitate meetings in the property industry
CPPDSM4046	Manage tenancy disputes
CPPDSM4048	Implement customer and client service strategies in the property industry
CPPDSM4049	Implement maintenance plan for managed properties
CPPDSM4050	Lease industrial, commercial and retail property
CPPDSM4053	List business for sale
CPPDSM4056	Manage conflict and disputes in the property industry
CPPDSM4057	Monitor a safe workplace in the property industry
CPPDSM4058	Monitor service requirements in the property industry
CPPDSM4060	Negotiate sale and manage sale to completion or settlement
CPPDSM4061	Obtain prospects for listings
CPPDSM4069	Promote and market listed business
CPPDSM4074	Select and appoint contractors in the property industry
CPPDSM4079	Work in the business broking industry
CPPDSMRE03	Prepare for sale or lease of strata title lots
CPPDSMRE04	Communicate effectively in the property industry

TABLE B

CPP503XX Diploma of Real Estate Agency Management

Replaces superseded equivalent CPP50307 - Diploma of Property Services (Agency Management).

Under the Training Package Students need to achieve this qualification, competency must be demonstrated in:

- 26 units
- Comprising
- 6 core units
 - 8 from Group A common elective units
 - 12 from Group B Property Sales and Development elective units.

The Group A common elective units are chosen as follows:

- a minimum of 3 and a maximum of 8 units from the Group A common elective units listed below
- up to 5 of the Group A common elective units may be selected from units originally packaged in a Certificate IV, Diploma or Advanced Diploma qualifications from the Property Services, Business Services, or Financial Services Training Package or any other Training Package qualification or accredited course that contributes to a valid, industry-supported vocational outcome.

The Group B Property Sales and Development elective units are chosen as follows:

- a minimum of 8 and a maximum of 12 units from the Group B Property Sales and Development elective units listed below.
- up to 4 of the Group B Property Sales and Development elective units may be selected from units originally packaged in a Certificate IV, Diploma or Advanced Diploma qualifications from the Property Services, Business Services or Financial Services Training Package or any other Training Package qualification or accredited course that contributes to a valid, industry-supported vocational outcome

Relevant units can be chosen depending on which class of licence.

(We have marked in bold the the units we believe should be included. Note that units marked with an * are common to the Certificate IV

Core units

*CPPDSM4007	Identify legal and ethical requirements of property management to complete agency work
*CPPDSM4008	Identify legal and ethical requirements of property sales to complete agency work
*CPPDSM4009	Interpret legislation to complete work in the property industry
*CPPDSM4080	Work in the real estate industry
CPPDSM5006	Establish and manage agency trust accounts
CPPDSM5009	Coordinate risk management system in the property industry

GROUP A - COMMON ELECTIVE UNITS

BSBRK401	Identify risk and apply risk management processes
BSBFIM501	Manage budgets and financial plans

BSBHRM506	Manage recruitment, selection and induction processes
BSBMGT502	Manage people performance
BSBMGT515	Manage operational plan
BSBMGT605	Provide leadership across the organisation
CPPDSM5012	Develop a strategic business plan in the real estate industry
CPPDSM5018	Ensure a safe workplace in the property industry
CPPDSM5030	Manage projects in the property industry
CPPDSM5032	Market the agency
CPPDSM5036	Prepare tender documentation in the property industry
CPPDSMRE01	Communicate as a leader in the property industry

GROUP B - PROPERTY SALES AND DEVELOPMENT ELECTIVE UNITS

CPPDSM3008	Maintain and protect condition of managed properties
*CPPDSM4001	Act as a buyer's agent
CPPDSM4002	Apply knowledge of state or territory legislative and regulatory framework to complete agency work
*CPPDSM4003	Appraise property
*CPPDSM4004	Conduct auction
*CPPDSM4005	Establish and build client-agency relationships
*CPPDSM4010	Lease property
*CPPDSM4011	List property for lease
*CPPDSM4012	List property for sale
*CPPDSM4013	Market property for lease
*CPPDSM4014	Market property for sale
CPPDSM4016	Monitor and manage lease or tenancy agreement
*CPPDSM4017	Negotiate effectively in property transactions
*CPPDSM4018	Prepare and present property reports
*CPPDSM4019	Prepare for auction and complete sale
*CPPDSM4020	Present at tribunals
*CPPDSM4022	Sell and finalise the sale of property by private treaty
CPPDSM4029	Appraise business
CPPDSM4032	Arrange valuation of facilities and assets
CPPDSM4036	Broker sale of industrial, commercial and retail property
CPPDSM4041	Contribute to development of a tenancy mix strategy
CPPDSM4045	Facilitate meetings in the property industry
C*PPDSM4046	Manage tenancy disputes
*CPPDSM4049	Implement maintenance plan for managed properties
CPPDSM4050	Lease industrial, commercial and retail property
CPPDSM4053	List business for sale

*CPPDSM4056	Manage conflict and disputes in the property industry
CPPDSM4057	Monitor a safe workplace in the property industry
CPPDSM4058	Monitor service requirements in the property industry
CPPDSM4061	Obtain prospects for listing
CPPDSM4060	Negotiate sale and manage sale to completion or settlement
CPPDSM4069	Promote and market listed business
CPPDSM4074	Select and appoint contractors in the property industry
CPPDSM4079	Work in the business broking industry.
CPPDSM5020	Manage and monitor effective client service in the real estate industry
CPPDSMRE02	Handle client funds as part of agency operations
CPPDSMRE03	Prepare for sale or lease of strata title lots

TABLE 3.
RISKS IDENTIFIED BY NSW FAIR TRADING

	RISK
1.	Understanding of Legislation
2.	Set Policy and Procedure for major actions
3.	Unlicensed or Unregistered personnel
4.	Lack of suitable paperwork
5.	Poor negotiation skills leading to harassment
6.	Inadequate Office Procedures
7.	Failure to think through the consequences of actions
8.	Poor research skills
9.	Failure to attend to detail
10.	Failure check facts against claims made
11.	Failure to properly identify conflicts of interest
12.	Failure to follow written procedures
13.	Failure to handle the question of price correctly
14.	Failure to keep proper written records
15.	No understanding about workplace safety and WHS (OH&S)
16.	Failure to seek help when there is a problem
17.	No conflict resolution policy
18.	Poor conflict resolution skills