

Safeguarding property sector prosperity for the good of all Victorians

Priorities for the real estate sector ahead of the Victorian State Government election, November 2022

September 2022



REIV

THE DIFFERENCE

ABOUT THE REAL ESTATE INSTITUTE OF VICTORIA

The Real Estate Institute of Victoria (REIV) is the peak representative body for real estate practitioners in Victoria. It is affiliated with the Real Estate Institute of Australia (REIA).

Established in 1936, the REIV works to enhance the professional excellence of its members to the benefit of the communities they work within, and to advocate and represent their interests.

REIV's membership comprises:

- more than 2,000 corporate members, representing agencies of all sizes;
- 6,000 real estate professionals;
- 2,000 individuals seeking qualifications in real estate; and
- dozens of affiliated entities providing products and services to the sector.

Collectively, these businesses employ more than 15,000 people across metropolitan, suburban, and regional Victoria.



MESSAGE FROM THE CEO



Victorians are captivated by property ownership and market trends. Ever since the mid-20th century articulation of the [Great Australian Dream](#) – the belief that home ownership can lead to a better life – the state has shown an obsession for the trends, dynamics and movements of the property market.

Today, that interest manifests in a fixation on property sale prices with [million-dollar medians](#) becoming milestone events, which, on one hand show the strength of a sector, but on the other hand underline an immediate and future [concern about housing affordability](#) for younger generations.

The glare on Victoria's property sector is not necessarily disproportionate. The industry itself is a significant contributor to the state's economy – 20 per cent of Gross State Product (\$76 billion) and a firm stake in the future (millions of Victorians hold superannuation funds connected to property) – provide evidence to that. Indeed, the sector itself contributes more than 40 per cent of the Victorian Government's annual tax revenue.

At the REIV, we are committed to supporting all participants in the state's property industry, including aspiring and current homeowners, investors, and renters, as well as employees and sector suppliers.

To ensure a prosperous future for the industry, major reform is required. Business and political leaders have the opportunity to come together to consider a longer-term and more strategic approach to how the industry is regulated, supported and taxed.

Ahead of the 2022 Victorian State Election, the REIV has established four priority areas it wishes to engage political leaders and advisers on:

1. the Victorian Government's own recent Property Market Review;
2. a much-needed wide-ranging property taxation review;
3. the recently amended Residential Tenancies Act (RTA); and
4. the real estate profession itself by addressing the obstacles to employment and ensuring a pipeline of new talent.

The pages overleaf outline the REIV's position on these important matters for the sector.

If the aforementioned is considered alongside the Victorian Government's recent track record in property public policy, a strong argument could be mounted that the sector deserves its own ministerial portfolio, rather than being swallowed within a broad consumer affairs ministry. Time will tell if this eventuates, but it is a position that is gaining traction within the industry.

We thank, in advance, all sides of Victorian politics for their interest in, and support of, the sector. We look forward to meaningful engagement over the coming weeks and months, and into the future.

Quentin Kilian
CEO REIV.



Key Election Priorities



REIV

THE DIFFERENCE

1

PROPERTY MARKET REVIEW

Examine and address systemic industry governance issues to support consumers and the sector

2

TAXATION REVIEW

Engage with the sector and stakeholders to initiate genuine property tax reform that will benefit all Victorians and help address housing affordability issues

3

RESIDENTIAL TENANCIES ACT

Review the Residential Tenancies Act (RTA) to prevent dwindling supply and an exodus of investors (residential rental providers)

4

REAL ESTATE PROFESSION - ATTRACTING NEW TALENT

Build a pipeline of new talent to ensure stability of employment in the sector

1 PROPERTY MARKET REVIEW

Examine and address systemic industry governance issues to support consumers and the sector

The real estate sector is calling on the government to examine the systemic issues that exist around industry governance and pinpoint the regulatory reform required to support consumers and the sector.

There needs to be assurance that the real estate industry operates under transparent and fair legislation by reviewing and updating legislation. Some of the areas for review are, the Statement of Information (SOI) and Material Facts Guidelines. The REIV also proposes the introduction of mandatory Compulsory Professional Development (CPD) for all real estate professionals, registration of bidders at auctions and identity checks for buyers and sellers.

The REIV seeks greater collaboration with the government on the recommended regulatory reforms outlined in this section.

Statement of Information (SOI)

It's critical that the price quoting process (and any associated regulatory compliance regime) is suitable not just for a rising market, but for all market conditions.

To that end, ensuring evidence-based quoting, and that both buyers and sellers of residential property have access to accurate information is vital. Reform is required to the Estate Agents Act (EAA) regarding the SOI and the information provided to all prospective buyers.

Firstly, to make the price estimation process more robust, the REIV has recommended amendments to the EAA. This should involve:

- Where fewer than three comparable property sales are available, there should be a mandatory requirement to include a written statement, signed by the agent, providing the rationale for the price estimate in the SOI.
- Guidelines should be provided to agents for estimating prices where fewer than three comparable property sales are available.

- The REIV believes that while the legislation is in place, there is a lack of adequate oversight and timely follow-up by Authorities where non-compliance is suspected. Timely action is important to ensure the legislation is effective. Adding further regulations will not improve the buyer experience unless the non-compliance is identified and acted upon promptly.

Secondly, introducing the same determination of estimated selling price laws outlined in the EAA to the Sale of Land Act 1962 to ensure similar governance, integrity, and consumer protections in the sales process for land sold without an estate agent representing the vendor.

This would give greater protection to buyers – many of whom are first home buyers – navigating the sales process without the guidance of a real estate professional.

Industry-wide Standardised Contract of Sale

The REIV believes reforming legislation to ensure an industry-wide standardised contract for the sale of real estate (with provision for special conditions prepared by a legal practitioner) would reduce the risk of bias and error as well as reduce cost to vendors and buyers.

The lack of consistency around the timing of the development of sales contracts means contracts are being produced at various stages of the marketing process, impacting buyers' ability to compare different properties. The Law Institute of Victoria and REIV have a co-branded contract that could be considered as a basis for the development of a standard contract of sale.



The lack of prescribed content and format for contracts of sale increases the risk of bias in the preparation of a contract by a legal representative acting for just one party in the transaction. Also, contract preparation costs are increased for the vendor and contract checking costs are increased for buyers.

Material Facts

The REIV recommends the regulator:

- Enhance the Due Diligence Checklist to encourage buyers to identify the facts 'material to them'.
- Require the vendor and the vendor's agent, on receipt of questions about material facts from a potential buyer or that person's agent, to answer questions honestly, including where necessary, that the information is unknown to them.

- Require a buyer who has engaged a buyer's agent to act for them, to inform that agent of the material facts that will influence whether the property and its price are acceptable.

Mandatory Identification and Registration

REIV suggests that prior to bidding at auctions, prospective bidders should be legally required to register and provide the agent with key information regarding their identification. In so doing prospective bidders would receive unique identifiers enabling them to participate in the bidding process.

Real estate transactions are often some of the largest financial transactions buyers and sellers make in their lifetimes and Victoria is one of the only states without a requirement for homebuyers to register to bid at an auction and verify their identity prior to signing a contract of sale.

In the absence of such requirements, non-legitimate buyers can attend auctions and engage in illegal activity. Consequences include giving the illusion of genuine buyers, disadvantaging genuine buyers, and potentially resulting in significant losses for the vendor.

Ensuring bidders are registered prior to bidding at auctions will enhance the transparency of the auction process, mitigate against the risk of illegal bidding, bring Victoria in line with the rest of Australia, and safeguard the interests of the vendor, buyer, and agent.

The REIV also recommends legislation to ensure there is verification of buyer and vendor identity before signing a contract of sale.

Mandatory Continuing Professional Development (CPD)

The REIV calls on the government to introduce a mandatory CPD requirement to work as an Estate Agent or Agent's Representative, proposing the Regulator and the REIV work in collaboration to design a suitable program.

For many years the REIV has been advocating for mandating continuing professional development for Estate Agents, Agent's Representatives, and conveyancers. CPD is central to increased professionalism within the industry and has is 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 New South Wales, 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 (RTOs) 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.

Sale of Land Act

The REIV recommends an amendment to the Sale of Land Act 1962 to include the same disclosure requirements (Statement of Information and related matters) contained in the Estate Agents Act. 1980.



Some 80 per cent of new properties are sold by non-Estate Agents, and the sale process guiding these transactions is not governed by the Estate Agents Act, leaving buyers particularly vulnerable.

Introducing the same determination of indicative selling price laws outlined in the EAA to the Sale of Land Act 1962 would ensure similar governance, integrity, and consumer protections in the sale process for land sold by non-Estate Agents.

This would ensure further integrity across the board in the residential real estate market, ensure consistency in the process, and hold all sales accountable to the same legislation and transparency. It gives greater protection to buyers – many of whom are first home buyers – navigating the sales process without the guidance of a real estate professional.

2 TAXATION REVIEW

Engage with the sector and stakeholders to initiate genuine property tax reform that will benefit all Victorians and help address housing affordability issues.

In recent months, the REIV has united with like-minded property industry leaders to advocate for the abolition of the much-maligned stamp duty tax, along with a genuine review of other property taxation policies.

The property sector taxation regime in Victoria provides almost half of the State Government's revenue. Leaders and consumer representatives in the sector believe Victoria must have a competitive property tax regime to encourage investment, jobs, and support reinvestment into the sector to sustain the future of the housing market in the state.

The Government should seek genuine reform to the property tax regime which contributes to the high cost of property transactions and continues to be a stumbling block for many buyers.

The current stamp duty tax is out of step with other jurisdictions and is a barrier to entry into the property market for many Victorians, innovative reform needs to be developed in consultation with the sector. Stamp duty tax, effects people at their most financially vulnerable point in time of home acquisition process, often needing to add the tax amount to the mortgage, thereby placing an ongoing financial burden upon households.

The constraints of high taxes such as stamp duty are impacting the supply of housing in Victoria, meaning families and individuals may not be 'right-sizing', due to the expenses attached to moving or downsizing, keeping people in properties that may no longer be suitable for them, limiting supply in the market. Although stamp duty concession applies to some categories of new homes, the burden remains for houses sold above \$750,000 and costs rising as rapidly as they are, this bracket will be more common.

A more efficient tax system will have positive flow-on effects for our economy; it will make housing more affordable, ensure Victoria attracts investment, unlock productivity, create jobs, and provide a fairer revenue base for Government.

The REIV and REIA have together, and separately, long supported stamp duty phase-out. Through REIA's 2021 Getting Real – A Fair Taxation Agenda, REIA and REIV carefully developed a rolling stamp duty campaign and coordinating policy “Axe the Tax”.

From REIA-REIV led research, critical evidence was found to show the impacts of stamp duty on both housing affordability and supply. In Melbourne, the additional cost of stamp duty is around 5.4 per cent or \$44,540 for a house worth (the then) median price of \$824,500 - around half an average Victorian's annual income, commanding 48.9% of annual earnings.

The call for the removal of transfer tax is not new. In fact, the case for its removal is so strong it is baffling it hasn't yet been done. Numerous research, including work external to the property industry, has shown transfer tax (stamp duty) is inefficient, unreliable, and impacts negatively on market activity and ultimately GDP.

A review of research articles, including government-initiated work, has shown, without exception, that transfer tax is inappropriate and too unstable for efficient fiscal management.

This was strongly noted in the 2009 Henry report with the recommendation “...land tax applying to all land regardless of use” would greatly assist housing affordability.

As stamp duty revenue represents nearly half the state's taxation revenue, it would seem only logical that more stable and predictable tax base be sought, alternatives must be carefully reviewed and discussed.



Labor's inclination to tax OK in a pandemic, but it will end

ANALYSIS
MATT JOHNSTON

WHEN times get tough, governments often revert to tax.

As much as Premier Dan Andrews loves to cosy up to

Party that would prefer to tax its way out of a hole than cut its budget.

And that's when the sun is shining.

In times of extreme weather – aka a pandemic – that seems fair enough.

disaster. But with a small business sector reeling and a property market still at slues and sevens, is a land tax hike and stamp duty whack good policy?

Expect people to divide along political lines on that

hikes harm the state's recovery while supporters will argue it's a necessary move to avoid plunging the state into even bigger deficits and debt.

Jacking up fines is easy money – the view being that “stuff people who break the

still struggling to get the hours of work they need, any extra costs will hurt.

What is hard to figure is how bad the budget situation had become before COVID-19 plunged the world into recession.

his first few years as premier.

Even Labor supporters worried about what lay ahead if there was a rainy day.

Now it's a deluge and there's a thunderstorm to come.

These tax hikes won't be

Leaders in the property sector believe stamp duty reform will kickstart the economy and create opportunities while improving affordability and supply. It is argued by industry, economists, and tax experts alike, that the issue is not whether to remove stamp duty, but how to best do it. Numerous options exist and this is where the conversation should be headed.

Stamp duty reform, done correctly, is a nation-building exercise and should be a collaborative effort between the Government, the property sector and consumers.

3 RESIDENTIAL TENANCIES ACT

Review the Residential Tenancies Act (RTA) to prevent dwindling supply and an exodus of investors (residential rental providers)

A detailed review of the Residential Tenancies Act is critical to address supply issues. The 2021 amendments have created a highly complex maze of legislation, regulations, guidelines, prescribed forms, and definitions. The significantly increased administration and cost burden is fuelling rental shortages as investors exit the market and is fast becoming a key factor in property managers leaving the sector.

Job vacancies in the sector have increased more than 80 per cent, with over 5,300 property manager roles currently listed (seek.com.au, 13 September 2022) a figure which equates to almost 10 per cent of the national property management workforce.

There are an estimated 2.7 million Australians living in rental properties in the fragile ecosystem underpinned by rental providers and property managers. The workforce, inclusive of rental providers and property managers, is essential to the supply of rental housing and are vital, just as renters are.



Without an adequate property manager workforce, the rental market will continue to deteriorate further beyond the supply and demand issues.

The Government must consult on a review of the changes to the Act and present a timeline to gather the sector's feedback and consider the impact it has had on the availability of rental properties in Victoria and on the management of tenancies and properties. The REIV will advocate for a better RTA, that creates a sustainable rental market while protecting renters' rights and the investment made by average Victorians.

An urgent review is required to attract more homeowners, investors, and property managers to participate in the Victorian rental market. There has been a mass loss of property managers and rental providers across Victoria exacerbating the rental supply crisis.

Since the changes, largely effective from March 2021, the RTA has created a significant additional cost burden for residential rental providers.

The RTA has become a significant factor impacting the already low vacancy rates in Victoria. Improving supply in the rental market will increase accessibility to the Victorian rental market and help reduce pressures on an already struggling social housing sector.

[Inequity in standards for rental vs owner occupied properties](#)

The RTA is contributing to a lack of rental affordability by imposing higher standards on rental properties than the standards that exist for established properties (properties that can be purchased for owner occupancy).

This has resulted in properties being removed from the lower end of the rental market when landlords are unable to meet the RTA criteria, or where the return on investment would not justify the additional expenditure to bring the property up to the RTA standards.

Example: Safety related activities – Gas

The following is a list of the sections of the Residential Tenancies Act and Regulations which specifically refer to gas safety related activities, listed in the order they appear in the Act and Regulations.

Residential Tenancies Act 1997	
S.27C	Prescribed terms – professional cleaning, maintenance and related obligations
S.30D	Information that residential rental providers must disclose before entering residential rental agreement
S. 68A	Residential rental provider's duty to comply with safety related repairs and maintenance requirements
S.68B	Residential rental provider must keep and produce records of gas and electrical safety checks
Residential Tenancies Regulations	
Reg 5	Gas safety check means
Reg 13	Safety-related activities
Reg 16	Information which residential rental provider must disclose to rental applicant
Sch 1	SAFETY-RELATED ACTIVITIES (the prescribed lease)
Sch 3	Safety related activities

91ZZI(5) contradicts 91ZZS, i.e. one indicates the renter can challenge a notice to vacate and the other indicates they cannot.

The issues: Some of the issues that a rental provider and agent face are:

- More than nine sections and regulations to be considered to understand the safety requirements regarding Gas.

- The processes only allow for the renter to become aware that rectification has not been completed when provided with a prescribed disclosure prior entering into a new agreement. Therefore, a long-term continuing renter may never discover the non-compliance.
- The penalty appears to be for not disclosing the non-compliance rather than for the non-compliance.
- Reg 5(a)(v) states: “that the clearances from appliances to combustible surfaces are in accordance with installation instructions and AS/NZS5601.1 “Gas installations”, as published or amended from times to time;”
- This means the assessment is against the installation standards that exist at the time of the inspection which may be different from those existing at the time of the installation. At the time of the installation a rangehood may be compliant at 600mm above the cooktop but installation standard may change to 650 for new installations. In the case of a residential rental property a rectification would be required but not in the case of an owner-occupied property.

[Increased cost of management and administration](#)

The complexity of the reforms has led to an increased resources required for property management. Other additional costs such as prescribed inspection regimes for smoke alarms and gas and electrical safety, (none of which are prescribed for owner occupied properties), that in low rental value properties take up a greater percentage of the gross rent, further exacerbating the supply issue as rental providers exit the market due to high maintenance costs.

The task of managing a residential rental property has become much more challenging, making it more difficult for owners to manage their properties. Compliance requirements are spread across the Act, the Regulations, the rental agreement, and Director’s Guidelines, making the task of managing residential rental properties much more complex. Agency employers are having to offer significant incentives to retain property management staff and attract new professionals to the industry.

The complexities also mean that the requirements are often misunderstood and miscommunicated by all parties involved.

[Contradictory requirements relating to Notices, Definitions and Conditions](#)

The legislation in relation to notices, definitions and conditions in properties is unclear and contradicted throughout the Act, meaning more confusion for renters and rental providers, resulting in required documentary evidence failing on minor technicalities and increasing VCAT escalations.

Examples:	
Serving a Notice	Method of serving a notice for access, is different from methods of serving any other types of notice. Refer the Act (Section S.506 Service of documents, 88 What must be in notice of entry) and the Regulations (Prescribed Residential Rental Agreement: Schedule 1, Form 1). While Section 506 makes no reference to different requirement is the case of a notice for access and the prescribed rental agreement implies that is the parties agree all notices can be served electronically, if the matter was being heard by VCAT where a notice for access had been served electronically, it would be deemed invalid.
End of fixed- term residential rental agreement of not more than 5 years	Section 91ZZD allows for a notice to vacate at the end of the first fixed term. If the renter does not vacate and an application is made for a possession order, VCAT is required to consider “what is reasonable and proportionate, including any other matter the Tribunal considers relevant”. The prescribed notice to vacate requires the inclusion of a reason apart from the reason that the first fixed term has come to an end. In other words, it is demanding a reason other than the reason. 91ZZI(5) contradicts 91ZZS, i.e. one indicates the renter can challenge a notice to vacate and the other indicates they cannot.

Evidence from REIV members has indicated that in the past 12 months many have seen their rent rolls shrink by between 10 and 15 per cent.

Rental providers are telling our members that a combination of higher selling prices; increased and onerous legislative changes; and the ability to get better yields from alternative investments, are leading to an increased exodus of rental providers. This in turn is shrinking the rental pool and pushing rents up, with as many as 40 groups attending and applying at rental ‘opens’.

The REIV does not see this situation easing unless the Government reviews the Act and Regulations taking into account the experiences of all parties involved. It is critical that investors are attracted back into the market to maintain a sustainable and equitable rental market.



4 REAL ESTATE PROFESSION -ATTRACTING NEW TALENT

Build a pipeline of new talent to ensure stability of employment in the sector

The REIV applauds the Victorian government for lifting entry standards, however, the unintended consequence is that it has significantly slowed the new talent coming through the sector.

The real estate profession is a leading economic contributor, currently employing thousands with almost 73 per cent (2021 ABS Census of Population and Housing) of all rental properties are managed by a real estate agent.

Since 2017, Victoria has seen an increase of 53 per cent to 56,000 people employed in the property sector. Its potential to employ thousands more is in front of government and industry, and a few simple changes could see the state attract more professionals, including many from interstate.

The Victorian Government needs to help attract new talent to work in the real estate industry, as the sector is experiencing significant staffing shortages, especially in residential property management and junior roles.

The sector urges the Government to review the regulations to allow students to undertake practical work under supervision while undertaking a Certificate IV, without impacting the recently elevated training standards.

Although over the last five years employment in the sector increased, in the last two years almost 40 per cent of property managers have exited the sector. COVID has impacted employment in many sectors, but in property management the problem has been exacerbated by the changes to the RTA in 2021. Workload and the complexity of work has increased as property managers have struggled to attend to the increased obligations on rental providers.

The key barrier to entering the sector is the length of time required to complete the prescribed studies before employment. Under the Estate Agents Act the entry level for a person to carry out real estate work is to be employed as an Agent's representative, and to be registered as such they must have attained a Certificate IV in Real Estate Practice (18 units).

As both the Victorian education and training regulator, VRQA, and the Australian training regulator, ASQA, require a minimum standard of training hours be applied by a Registered Training Organisation (RTO) in the delivery of the Certificate IV course, the learning process can take between six and 10 months to complete.

This means a student cannot be employed or involved in any part of the 'real estate process', during that period, meaning most either do not seek, or are not offered, employment until they complete their Certificate IV studies.

The REIV is urging the government to review the licensing and regulatory requirements for Agent's Representatives and in addition the requirements to be satisfied by Agents and Agent's Representatives seeking to move from interstate to work in Victoria.

Suggested approaches include:

- **Interim certificate:** students who complete the core units of Certificate IV be permitted to perform some real estate work, under the supervision of a licensed estate agent.
- **Mutual Recognition:** when reviewing an application for recognition of real estate qualifications completed in another state or territory, consider the level of study required to complete the qualification. Victoria was the only state offering a three unit Agent's Representative qualification, almost all other states and territories required a Certificate IV or equivalent.
- **Traineeships:** REIV requests detailed guidelines on the tasks that a trainee can complete during their traineeship period. The current regulations only permit simple office administrative tasks, seriously limiting the support that a trainee can provide their employer.



METHOD FOR ENGAGEMENT

The REIV looks forward to a proactive schedule of engagement with the State Government and the Opposition parties over the coming weeks and months.

REIV CEO Quentin Kilian will lead the organisation's government liaison, bringing in key members of the Institute where required.





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