

# REIQ JOURNAL

FOR MEMBERS OF THE REAL ESTATE INSTITUTE OF QUEENSLAND



REAL ESTATE INSTITUTE OF QUEENSLAND  
TWO THOUSAND AND SIXTEEN

# Awards for Excellence

# Awards for

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## FINALISTS

### Rookie of the Year

- Briarne Manley (Nanette Lilley Property)
- Michael Walpole (Amber Werchon Property)
- David Savoff (CBRE)
- Tina Sander (Harcourts Coastal)
- Anne Powell (Laguna Real Estate)
- Patrick Iodice (Ray White Surfers Paradise)

### Commercial Property Manager of the Year

- Caitlin Donaldson (Knight Frank Australia Pty Ltd)

### Commercial Salesperson of the Year

- Mel Pikos (CBRE)
- Robert Dunne (Savills)
- Stephen MacGregor (Ray White Surfers Paradise)
- Tom O'Driscoll (Knight Frank Australia Pty Ltd)

### Business Broker of the Year

- Ian Salter (Benchmark Business Sales & Valuations)

### Best Real Estate Report

- Rosanne Barrett (The Australian)
- Matt Cranston (The Australian Financial Review)
- Laura Dymock, et al (Seven News)
- Erle Levy (Sunshine Coast Daily)
- Nila Sweeney (Your Investment Property)

### Buyers' Agent of the Year

- Nicole Marsh (Eureka Property Buyers Agents)
- Karen Young (Property Zest)
- Tony Coughran (VFM Property Advisors)
- Bryan Loughnan (Propertyology)
- Nathan Wunsch (Property Pursuit)
- Shannon Davis (Metropole Property Strategists)

### Residential Salesperson of the Year

- Justin Hagen (Calibre Real Estate)
- Shannon Harvey (Place Estate Agents)
- Damien Said (Century 21 on Duporth)
- Mark McGill (Amber Werchon Property)
- Damien Keyes (Keyes & Co. Property)
- Brett Andreassen (Doug Disher Real Estate)
- Tristan Rowland (Place 2108)
- Melanie Butcher (Laguna Real Estate)
- Bridget Gabites (Harcourts Solutions Inner City)
- Juana Bernardo (RE/MAX Profile Real Estate)

### Residential Property Manager of the Year

- Lisa Peruzza (Place Estate Agents)
- Cyndi Ward (RE/MAX Gold)
- Lauren Robinson (Rental Results)
- Leanne Kerr (Century 21 on Duporth)
- Cavell Cooper (Hot Property Specialists Buyers Agency)
- Matthew Gleaves (Place Newmarket)
- Sarah Bell (Brad Bell Real Estate)
- Katie Knight (RE/MAX Success)

### Corporate Support Person of the Year

- Brock Beazley (Century 21 on Duporth)
- Amy Wolter (Place Estate Agents)
- Greg Tate (Raine & Horne Commercial Brisbane Southside)
- Penny Choyce (Laguna Real Estate)
- Sophie Read (Ray White Aspley)
- Jasmin Zande (Next Property Group)

### Auctioneer of the Year

- Gordon MacDonald (Jason Andrew Group)
- Mark MacCabe (Harcourts Helensvale/Pacific Pines)
- Les Moriarty (PRD Buderim)
- Justin Nickerson (Apollo Auctions Pty Ltd)

### Community Service Award

- Ray White Surfers Paradise
- LJ Hooker Ormeau
- Harcourts Solutions
- Laguna Real Estate

# Excellence

REAL ESTATE INSTITUTE OF QUEENSLAND  
TWO THOUSAND AND SIXTEEN

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## WINNERS

### Commercial Agency of the Year

- CBRE
- Place Projects Pty Ltd
- Ray White Commercial Gold Coast
- Raine & Horne Commercial Brisbane Southside & Bayside

### Small Residential Agency of the Year

- Madeleine Hicks Real Estate
- Next Property Group Kawana Forest
- Propertyology
- MTR Property Group
- Donna Sands Boutique Property
- Keyes & Co. Property

### Medium Residential Agency of the Year

- Realway Property Consultants
- Denovans Real Estate
- LJ Hooker Pacific Pines
- Bees Nees City Realty
- Insite Realty
- Brad Bell Real Estate

### Large Residential Agency of the Year

- Harcourts Coastal
- Calibre Real Estate
- Amber Werchon Property
- Laguna Real Estate
- Ray White Surfers Paradise
- Dowling & Neylan Real Estate
- Place Estate Agents
- Lucy Cole Prestige Properties
- Ray White Aspley
- Place Newmarket

### Rookie of the Year

David Savoff (CBRE)

### Commercial Property Manager of the Year

Caitlin Donaldson (Knight Frank Australia Pty Ltd)

### Commercial Salesperson of the Year

Mel Pikos (CBRE)

### Business Broker of the Year

Ian Salter (Benchmark Business Sales & Valuations)

### Best Real Estate Report

Matt Cranston (The Australian Financial Review)

### Buyers' Agent of the Year

Karen Young (Property Zest)

### Residential Salesperson of the Year

Mark McGill (Amber Werchon Property)

### Residential Property Manager of the Year

Katie Knight (RE/MAX Success)

### Corporate Support Person of the Year

Brock Beazley (Century 21 on Duporth)

### Auctioneer of the Year

Justin Nickerson (Apollo Auctions Pty Ltd)

### Community Service Award

LJ Hooker Ormeau

### Commercial Agency of the Year

Raine & Horne Commercial Brisbane Southside & Bayside

### Small Residential Agency of the Year

Propertyology

### Medium Residential Agency of the Year

Denovans Real Estate

### Large Residential Agency of the Year

Harcourts Coastal



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## REIQ Mission Statement

*To remain the State's peak real estate organisation universally recognised for its leadership of the profession and its relevance to real estate practitioners, governments and the community.*

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The REIQ Journal is proudly produced on paper manufactured under an ISO14001 Environmental Management Program, using fibres from certified forests and audited sources. The REIQ Journal is printed with soy based inks.

# Overnight success takes years to achieve

WORDS BY ROB HONEYCOMBE, REIQ CHAIRMAN

*There's a great book I've just read that's really relevant to a lot of us, called "The Long Road to Overnight Success". The guy who wrote it, now a highly successful Australian, seemed to appear out of nowhere.*



For many years he flew below the radar, no public attention, little reward, but he kept working. He kept training and continued to upgrade his skills. And this is what he wrote about striving for acknowledgement:

"In any organisation a badge, or an award of any kind, is intended to recognise something you've done. But if you don't get the badge it doesn't take away from your achievement..."

"It's about the experience, the lessons, the knowledge..."

"With or without that tiny patch stitched on the arm of a no-longer-used uniform, its very lessons are in

my mind and at my fingertips. And that is where they truly belong."

In this edition we celebrate the achievements of the winners and finalists at our recent Awards for Excellence, and on behalf of the REIQ Board I offer our warm congratulations for your achievements and your recognition.

For all of us however, this book's message is a potent reminder. The road to success can be long, but ensure you make time to enjoy the journey. To enjoy the learnings along the way. It's just as important.

One minute this humble bloke was an unknown actor who'd been plying his trade year after year. The next he was starring in a blockbuster, playing one of our all-time favourite characters - the lisping, hilarious portaloo expert named Kenny. This author and actor Shane Jacobson, was our MC at the recent Awards night. And apart from being a seriously funny b@&#ard, he had a good message.

You and I have to earn the respect of the public and our clients. To justify our fee and to rise above talk of "disintermediation" and DIY sellers and landlords. Our clients should expect a skilled agent with current knowledge. An agent that continues to hone their craft and to improve themselves.

Whatever your career path in real estate you know the best results are achieved when you take a long term approach. Sometimes it isn't easy, to find the endurance, the will to hang in there, when markets are tough or when you're not sure where that next sale or management might come from.

The REIQ wants to travel with you on that journey and to be your trusted advisor. To support you and lobby for our profession. To provide the advice, training and tools to make it easier.

So, award winner or not, please take time to celebrate your achievements. Take time to acknowledge your own experience and your lessons on that long road to overnight success.

And please be proud to be a real estate professional.

**#ProudToBeARealEstateProfessional**





# Congratulations on a year of achievement!

WORDS BY ANTONIA MERCORELLA, REIQ CEO

*We have just celebrated the REIQ Awards for Excellence and I want to extend my sincere congratulations to each and every 2016 finalist and winner. You should all feel immensely proud of your wonderful achievement in what was one of our most hotly contested events ever.*



This year, we had a record number of finalists and the largest crowd in attendance. It made my heart swell with pride to see so many dedicated and professional real estate practitioners participating in our event. At a time when we are surrounded by constant chatter about the pending digital disruption of the real estate profession, it's proof that excellent customer service and professionalism is our best insurance policy against disruption.

I'm often asked to comment on what judges look for when they assess our Awards. It's not just one single thing. It includes, amongst other criteria,

a demonstrated commitment to professional development, constant and continued improvement, outstanding customer service and the ability to adapt to constantly changing commercial and regulatory landscapes.

So next year when the nomination process opens, be brave and have a go. Our definition of excellence is broader than you might think and you could be our next finalist or winner in 2017!

Speaking of excellence in real estate, I'm thrilled to announce that we will be hosting another REIQ Summit in 2016. This two day event will be held on 6 and 7 October in Brisbane and will feature another amazing line-up of informative and inspirational speakers.

We were overwhelmed by the positive feedback to our inaugural Summit last year, so as Molly Meldrum would say "do yourself a favour" and reserve these dates in your diary. Here's some feedback from some of our 2015 attendees:

"The most professionally organised conference I've been to. Great speakers, great venue. The work booklet blew my mind. Small things make all the difference."

- Samara Bedwell

"Obviously a lot of thought and planning went into this event - well done to all involved!" - Peter Barrett

"I enjoyed the trade hall as well. Lots of people with lots of good products with lots of experience."  
- John Hague

Our 2016 zone events calendar has kicked off, with our first event in Mackay. As we all know, it's a region that's doing it pretty tough at the moment. During my visit, I heard some very concerning and sad tales about the local economy and the property market. Yet despite the challenging conditions, I was impressed by the optimism and dedication shown by our members in that community. Real estate can be a difficult profession at the best of times but it's in the difficult periods that great real estate agents really stand out.

I look forward to seeing you at an REIQ event soon.

**Until then, all the very best.**  
**Antonia**



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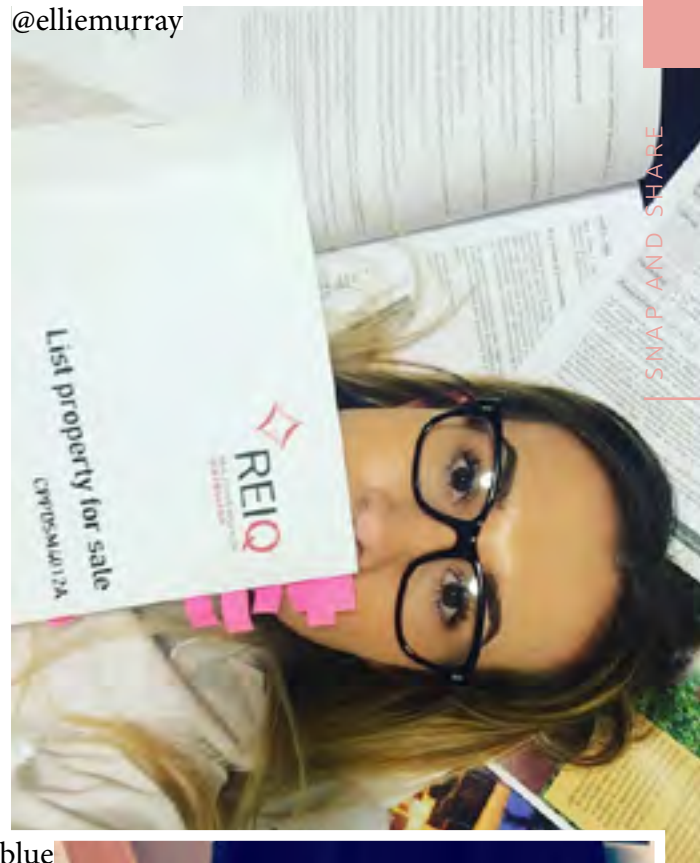






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Overseas model shown

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# Negative gearing changes a risk

Queensland would be hit hardest if Labor's controversial new negative gearing limits were introduced, with many towns that are still reeling from the resources downturn taking an additional economic hit, the REIQ announced.

Mackay leads the country for negatively geared properties, with 5,755 property owners who negatively gear their investment. Gladstone and Cairns each have about 4,000 investors who negatively gear their property, according to ATO figures.

"Mackay and Gladstone are still struggling, years later, to regain their equilibrium. Another hit, like these changes to negative gearing – would be absolutely disastrous for these communities," Ms Mercorella said.

Ms Mercorella said investors made up about a third of all property owners in Queensland and only seven per cent of those owners access negative gearing in new-builds. She warned that if investors abandoned property in significant numbers it would be disastrous for the State budget.

"Stamp duty is the cash cow of the Queensland State budget, and if investors are driven away from established property ownership it would leave a huge hole in the State's budget," she said.

The Labor strategy of driving investors to the new-build market would also make a mockery of the State Government's Great Start Grant. The grant is designed to drive first-home buyers to the new-build market and free them from competing with

so-called "deep pocket" investors.

This issue highlights the critical need for communication between all three levels of government and a much more collective approach adopted.

"Why are we giving first-home buyers a \$15,000 grant to buy off-the-plan or build, but then forcing them to compete with investors who have been driven to the new-build market to access negative gearing and CGT benefits?" Ms Mercorella said.

"It's a very confused strategy," she said.

The implications of Labor's strategy are broad for Queensland, possibly more so than any other state.

Investors provide the housing for more than a third of the state's renters and maintaining supply to this section of the market is vital.

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# PropertyTree, Realworks integrate

*Integration is a bit of a buzz word, but is there actually any value in integrating your various technologies?*

When it comes to your trust accounting software, integration is the key to enhancing business operations, efficiency and productivity levels. Essentially, software integrations allow for the data exchange between multiple software programs, streamlining multiple business operations into the one.

These types of integrations create dynamic and efficient workplace processes. Property management solutions, such as PropertyTree, powered by Rockend, have multiple integrations, including the latest integration with Realworks.

The primary benefit of a software integration is the efficiency between the two platforms. The new Realworks integration simplifies your processes by automatically completing Realworks agreements and forms with data from PropertyTree, reducing repetitive data entry and saving you valuable time. Maximising the functionality of your software can help you maintain your data integrity by reducing manual human error when completing forms.



Software integration is an essential aspect of a modern, effective business. The seamless software performance, combined with vast data capabilities enriches your staff and your business. The new Realworks integration can be used for property management, sales, commercial leasing and commercial sales. All agreements and forms can be customised to include your agency logo as well as the REIQ logo, validating the documentation.

If there are legislation changes, Realworks will do the hard work for you and ensure all forms are amended and up-to-date so you

never have to worry. This latest integration with PropertyTree ensures that you and your business can work smarter not harder.

Are there integrations available in your trust accounting software that you're not taking advantage of? Take the time to find out and see how these can help you run a superior business operation.



## CPD and zone breakfasts/lunch dates for March 2016

Date	Zone	Breakfast/Lunch	CPD	Venue
2 March	Eastern	7.30-9.00am	9.15-11.00am	Pacific Golf Club
3 March	Toowoomba	7.30-9.00am	9.15-11.00am	Middle Ridge Golf Club
9 March	Gold Coast	7.30-9.00am	9.15-11.00am	Sharks Event Centre
16 March	Northern	7.30-9.00am	9.30-11.00am	Aspley Hornets
23 March	Caboolture	7.30-9.00am	9.30-11.00am	Caboolture RSL
24 March	Gladstone	7.30-9.00am	9.30-11.00am	Grand Hotel

# Break out of the rut of printing, signing, scanning forms

WORDS BY ANITA O'CONNOR, THE FORM GURU

*Cut down on printing costs, paper wastage and time with this simple tip.*

It can be an endless, repetitive cycle when you have to sign a document and email it back to someone. You first have to print the form out, then find a pen that works, then sign it, then scan the document and email the image off to an impatiently waiting recipient.

Print, SIGN, scan, email... print, sign, scan, email... print, sign, scan, email.

But what if you didn't have to physically sign every form? What if your signature was part of a form template? You wouldn't have to worry about signing, printing or scanning. You could just email the completed form and get on with more productive and rewarding tasks. Oh, happy days!

Now you can!

Realworks, your form and agreement creation tool, now gives you the ability to save and store your signature onto the following RTA and RTAR forms:

- RTA02 - Bond Lodgement Form
- RTA04 - Refund of Rental Bond
- RTA09 - Entry Notice
- RTA10 - Notice of Lessors Intention to Sell Premises
- RTA11 - Notice to Remedy Breach
- RTA12 - Notice to Leave
- RTAR9 - Entry Notice Rooming
- RTAR11 - Notice to Remedy Breach Rooming
- RTAR12 - Notice to Leave Rooming

That's a whole lot of printing, signing, scanning and emailing off your plate. And think of all the trees you've saved! It's quite green when you think about it – less paper and empty ink cartridges.

But that's not all!

If you use a CRM that merges to templates within Realworks, you'll be able to create a new template and apply your signature to that. Viola! Multiple notices, ready for sending

straight out of Realworks!

## How to create your signature

Create your signature in the Account Details area, using a tablet device: Draw your signature in the box using your mouse or touch screen and click <OK>.

OR

Scan your signature and upload it in My Details: Click <Choose File> and browse to the correct file. Once the file has been selected, click <OK>.

## How to add your signature

When you are using a signature enabled notice, click the Signing button and select the signature stamp. Signature stamping can only be added or changed while the notice is in a draft state or within a notice template.

**For more detail, check out our help guide: <http://help.realworks.com.au/#agent-signature>**



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# Awards for Excellence

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## ROOKIE OF THE YEAR



**DAVID SAVOFF**  
CBRE



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## COMMERCIAL PROPERTY MANAGER OF THE YEAR



**CAITLIN DONALDSON**  
KNIGHT FRANK AUSTRALIA PTY LTD





## COMMERCIAL SALESPERSON OF THE YEAR



## BUSINESS BROKER OF THE YEAR



# Awards for Excellence

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## BEST REAL ESTATE REPORT



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## BUYER'S AGENT OF THE YEAR





## RESIDENTIAL SALESPERSON OF THE YEAR



## RESIDENTIAL PROPERTY MANAGER OF THE YEAR





# Awards for Excellence

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## CORPORATE SUPPORT PERSON OF THE YEAR



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## AUCTIONEER OF THE YEAR



## COMMUNITY SERVICE AWARD



## COMMERCIAL AGENCY OF THE YEAR





# Awards for Excellence

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## SMALL RESIDENTIAL AGENCY OF THE YEAR



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## MEDIUM RESIDENTIAL AGENCY OF THE YEAR





## LARGE RESIDENTIAL AGENCY OF THE YEAR



## 2016 AWARDS FOR EXCELLENCE WINNERS











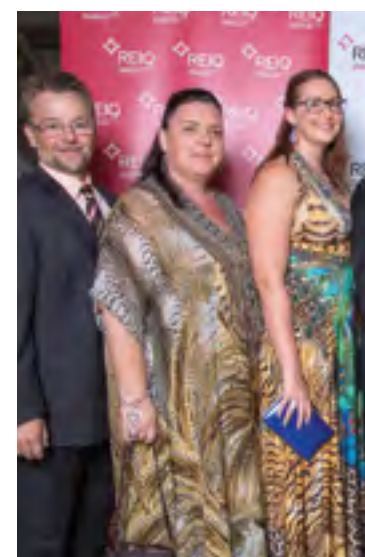
Almost 600 real estate professionals attended the REIQ Awards for Excellence gala dinner.



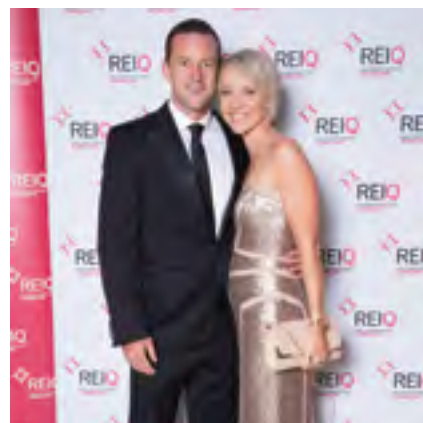




IMAGES BY INDUSTRIE MEDIA







*Our profession  
celebrated a year of  
outstanding achievements  
and great successes.*



# Are your property management systems working for you?

*REIQ's Property Management Support Service team receives calls each week from property managers and principals about issues that could have been avoided if better systems were in place within the agency.*

As a result, the team has put together a feature day to help members start 2016 with a renewed focus on the profitability and efficiency of the day to day management of the rent roll by analysing five key property management systems.

Property Management Einstein will help attendees incorporate the law, best practice and technology to work smarter not harder, and commit to a five-point action plan at the end of the day.

The Property Management Einstein day incorporates these practical sessions:

**If the plan doesn't work, change the plan but never the goal**

- The importance of goal setting, performance measurement and accountability in PM

- The 5 point action plan

**The Great Debate: Does one size fit all? Hear what three highly experienced business owners and property managers think and their answers to the two top property management questions:**

- How many properties can a property manager manage effectively?
- Task vs portfolio vs mixed approach: what's best?

**The five key property management systems**

System 1: Establishing new managements to minimise disputes and maximise profitability

System 2: Establishing new tenancies

System 3: Rent arrears management

System 4: Maintenance mayhem to maintenance control

System 5: The vacate process

**Tech snapshot: tips to maximise the features of your software package**

**Accountability is the glue that ties commitment to results: Developing your five point action plan and strategies to turn ideas into results**

Property Management Einstein features sessions from 14 experienced property management practitioners:

- Dot Hamilton, First National Palm Beach
- Jess Mazzocato, Real Estate Precinct
- Lisa Peruzza, Place Estate Agents Bulimba
- Cyndi Ward, RE/MAX Gold
- Lauren Robinson, Rental Results
- Leanne Kerr, Century 21 on Duporth
- Cavell Cooper, Hot Property Specialists Buyers Agency
- Matthew Gleaves, Place Newmarket
- Sarah Bell, Brad Bell Real Estate
- Katie Knight, RE/MAX Success
- REIQ's Property Management Support Service team of Connie McKee, Kim Coffey, Samara Bedwell and Nick Brown

Property Management Einstein is on Friday 11 March in Brisbane. Make sure you book your place for a day packed with practical ways to improve profitability and effectiveness!

**Visit [www.reiq.com](http://www.reiq.com), email [courses@reiq.com.au](mailto:courses@reiq.com.au) or phone Jill McGuire on 3249 7373 for more information or to book your place.**





## Registration and Licensing Courses Feb - Mar 2016

BRISBANE	
14 - 17 Mar	9.00am - 4.30pm
21 - 24 Mar	9.00am - 4.30pm
5 - 8 Apr	9.00am - 4.30pm
12 - 15 Apr	9.00am - 4.30pm
26 - 29 Apr	9.00am - 4.30pm
4 Apr	Registration evening classes commence 8 evenings (6-9pm Mon and Tues)

GOLD COAST	
21 - 24 Mar	9.00am - 4.30pm
12 - 15 Apr	9.00am - 4.30pm
26 - 29 Apr	9.00am - 4.30pm
21 - 24 Mar	9.00am - 4.30pm
9 May	Registration evening classes commence 8 evenings (6-9pm Mon & Tues)

SUNSHINE COAST	
15 - 18 Mar	9.00am - 4.30pm
19 - 22 Apr	9.00am - 4.30pm

IPSWICH	
26 - 29 Apr	9.00am - 4.30pm

FRASER COAST	
5 - 8 Apr	9.00am - 4.30pm

ROCKHAMPTON	
5 - 8 Apr	9.00am - 4.30pm

TOOWOOMBA	
14 - 17 Mar	9.00am - 4.30pm
18 - 21 Apr	9.00am - 4.30pm

TOWNSVILLE	
14 - 17 Mar	9.00am - 4.30pm

CAIRNS	
21 - 24 Mar	9.00am - 4.30pm
18 - 21 Apr	9.00am - 4.30pm

MACKAY	
12 - 15 Apr	9.00am - 4.30pm

## Resident Letting Agents Licence

GOLD COAST	
4 - 8 Apr	9.00am - 4.30pm

## Career Networking Lunches

BRISBANE	
23 Mar	12.30 - 1.30pm
13 Apr	12.30 - 1.30pm

GOLD COAST	
28 Apr	12.30 - 1.30pm

SUNSHINE COAST	
16 Mar	12.30 - 1.30pm

## Specialised Courses Feb - Mar 2016

SPECIAL EVENT	
Selling homes of the future and elite leadership	Brisbane Convention Centre: 15 Apr (9.00am - 5.00pm)

FEATURE DAY	
PM Einstein	Brisbane: 11 Mar (9.00am - 5.00pm)

PROPERTY MANAGEMENT	
Property management documentation and legislation refresher	HERVEY BAY: 4 Apr (1.00am - 4.30pm)
Property management IQ	TOWNSVILLE: 18 Mar (9.00am - 4.00pm)
A-Z of property management maintenance plus	BRISBANE: 11 Apr (9.00am - 12.30pm) GOLD COAST: 18 Mar (9.00am - 12.30pm) SUNSHINE COAST: 22 Mar (9.00am - 12.30pm) TOOWOOMBA: 18 Mar (9.00am - 12.30pm) ROCKHAMPTON: 4 Apr (1.00pm - 4.30pm) CAIRNS: 22 Apr (9.00am - 12.30pm) MACKAY: 11 Apr (1.00pm - 4.30pm)
Property management thought leader growth	TOWNSVILLE: 17 Mar (2.00pm - 5.30pm)
Property management #2	WEBINAR: 22 Mar (11.00am - 12.00pm)
Property management #3	WEBINAR: 19 Apr (11.00am - 12.00pm)
Property management breakfasts	SUNSHINE COAST: 23 Mar (7.15am - 8.45am) IPSWICH: 14 Apr (7.15am - 8.45am) MACKAY: 14 Apr (7.15am - 8.45am) ROCKHAMPTON: 7 Apr (7.15am - 8.45am)

AGENCY MANAGEMENT AND ADMINISTRATION	
Starting an agency	BRISBANE: 10 Mar (9.00am - 3.00pm) SUNSHINE COAST: 21 Apr (9.00am - 3.00pm)
Trust account for agency principals and managers	TOOWOOMBA: 22 Apr (9.00am - 12.30pm)
Recruitment and retention	BRISBANE: 9 Mar (1.00pm - 4.30pm)

COMMERCIAL AND BUSINESS BROKING	
Commercial webinar series	WEBINAR: Commencing in March
Commercial sales series: Part 1	BRISBANE: 7 - 8 Mar (9.00am - 4.00pm)
Commercial sales series: Part 2	BRISBANE: 18 - 20 Apr (9.00am - 4.00pm)
Assessing and listing businesses	BRISBANE: 8 Mar (9.00am - 3.00pm)

SALES AND AUCTION	
Retirement and seniors lifestyle sales - becoming a retirement property specialist	BRISBANE: 20 Apr (1.00pm - 4.30pm) GOLD COAST: 11 Apr (1.00pm - 4.30pm)
Sales and auction documentation and legislation refresher	HERVEY BAY: 4 Apr (9.00am - 12.30pm)
How to write attention grabbing, highly effective adverts that sell	BRISBANE: 6 Apr (9.00am - 12.30pm)

TECHNOLOGY	
Put your best foot forward: online safety and reputation	BRISBANE: 21 Mar (1.00pm - 4.30pm)
There's an app for that	BRISBANE: 20 Apr (9.00am - 12.30pm)

SAFETY	
Workplace health and safety in real estate - minimise your agency's risk	BRISBANE: 4 Mar (9.00am - 12.30pm)

# When do I have to give the tenant the tenancy agreement?

WORDS BY KIM COFFEY, PROPERTY MANAGEMENT SUPPORT SERVICE

*If a new tenant sees their written tenancy agreement for the first time after they are already considered to be “locked in”; or if they see their written tenancy agreement for the first time after having already paid bond and/or rent; or if they see their written tenancy agreement for the first time on the day they are moving in, with their removal truck idling outside – then in all cases the procedures that have been followed have not demonstrated compliance with the RTRA Act.*

Under section 61 of the RTRA Act, a lessor/ agent must ensure the tenancy agreement is in writing. This written agreement must include the 44 standard terms, and any special terms that will form part of the agreement between lessor and tenant. In accordance with section 58 of the RTRA Act, this written agreement must be provided to the tenant before doing any of the following:

- Accepting a document from the tenant that commits the tenant to enter into the tenancy or pay an amount relating to the tenancy (for example, an application form that commits the tenant to be bound upon verbal acceptance, or that commits them to paying an amount of rent or bond).
- Accepting an amount from the tenant relating to the tenancy (ie. payment of bond or rent).
- Entering into the agreement for the tenancy (which would include verbally entering into the agreement).

In order to consistently ensure that tenants are being given a copy of the written tenancy agreement before any of the above occur, best practice would be to always provide a prospective tenant with the written tenancy agreement with their application form. This means the written tenancy agreement for the particular property they are intending to apply for, including the standard terms and any special terms that would be part of the agreement.

Taking this step clearly demonstrates compliance with the legislation and ensures that the parties won't be delayed or prevented from entering into an agreement that is considered binding. But it will also help to ensure that the applicants have a clear understanding from the outset regarding the content of the agreement the lessor/agent will be expecting them to sign, should their application result in a confirmed tenancy. It allows the applicants the opportunity to perhaps identify any aspects they may wish to attempt to negotiate on before an agreement is actually entered into. So it is a useful step for opening up communication, and can assist with reducing the types of misunderstandings that lead to disputes during a tenancy.

## **Can we initially give the applicants a blank tenancy agreement, and fill it in after they are approved?**

A blank agreement would not inform the prospective tenant about important details that will form part of the agreement (for example, how rent is to be paid, and whether the tenant will have to pay for water, and so on). Therefore the tenancy agreement form should be completed - with the exception of tenancy dates, and the tenants' names.

## **If I give an applicant a completed tenancy agreement, won't they think they've been accepted as tenants?**

It should be made clear to the applicants that the written agreement is being provided for them to read before applying because it is the agreement they will be applying to enter into. It should also be made clear that providing them with a written agreement to read before applying does not indicate that they have already been accepted as tenants for the property.

If the prospective tenant has been provided with a written tenancy agreement with their application form, and if their application is subsequently approved and accepted, the parties can then enter into a binding agreement - even verbally, refer to section 12 of the RTRA Act. However best practice would be to have the tenant sign the (now fully completed) tenancy agreement as soon as practicable upon approval.



*Best practice would be to always provide a prospective tenant with the written tenancy agreement with their application form.*

**How do I retain proof that I've given the applicant the tenancy agreement at the right time?**

If the tenant later claims that the agent failed to provide the written tenancy agreement before binding them to the agreement, the burden of proof would rest with the agent. The REIQ Application for Residential Tenancy form does contain an acknowledgement that the tenancy agreement has been received and reviewed before applying (refer to Part 5, section 5). The tenant is required to indicate 'yes' before signing the application form and submitting it.

Alternatively, agents could use an acknowledgement or checklist they ask the tenant to sign.

If an agent wished to create a record by giving the prospective tenant the proposed tenancy agreement via email, then electronic consent would need to be established. If adopting this approach, the Property Manager might choose to carry a supply of electronic consent forms to the Open House, rather than the application

forms and tenancy agreements. An electronic consent form would then be signed by a prospective tenant when they first indicate their wish to apply for the property. After the Open House the agent would then email the prospective tenant the application form and proposed tenancy agreement as attachments to the one email, with a covering letter encouraging them to read the agreement before applying.

**What are the potential consequences if section 58 is not complied with?**

If a tenant believes the lessor/agent has not complied with section 58, they can apply to QCAT. The Tribunal can make any of the following orders:

- that the lessor or lessor's agent pay an amount to the tenant or prospective tenant
- that a residential tenancy agreement entered into is of no effect
- an order varying the terms of the residential tenancy agreement
- any other order the tribunal considers appropriate



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# CPD top earners and learners



**Name:** Robbie Neller

**Agency:** Ray White Peregrin Beach



## Why is CPD important to you?

Completing extra CPD modules are so important due to the fact that laws and legislations are so often changing. It is paramount that any person who represents themselves as an REIQ Accredited Agency or an REIQ Individual Member should be able to competently answer questions from a consumer while dealing with them in any aspect relating to the real estate profession despite the particular sector they work in.

## What do you value most about CPD?

I value my CPD because it keeps me educated, helps me to communicate in an impressive manner with people I deal with on a day-to-day basis and also allows me to maintain contact with key people within our profession body which I feel is so very important for an agent who is serious about this profession.

## Do you prefer face-to-face CPD sessions, webinars, or a combination of both?

I prefer a combination of both due to the fact that I can undertake

these assignments at my own pace and the sessions allow me to meet like-minded people who also have ambitions to raise the standard in which our profession operates right across the board.

I note that the Queensland Government is considering an industry-wide CPD, I welcome this initiative and believe it will go towards setting a standard which will also help dedicated agents change the perception that the general public has of our profession in general.

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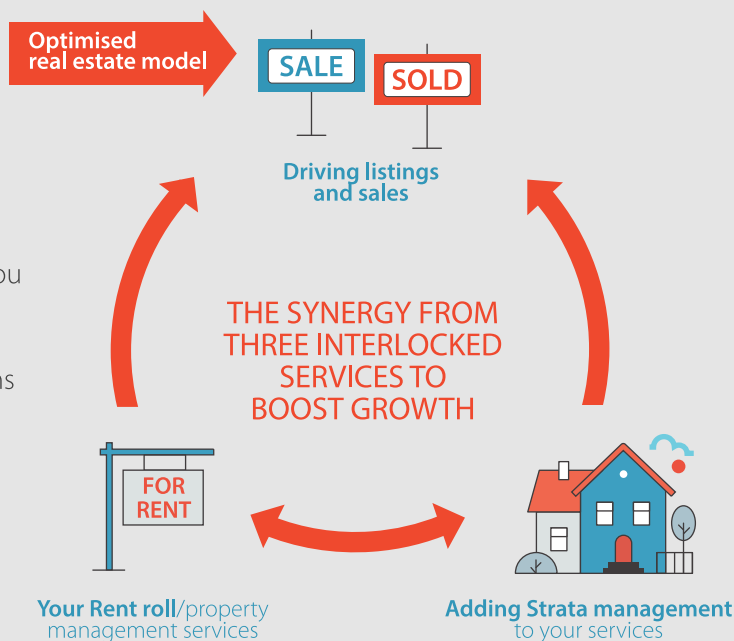
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\*Based on strata industry average scheme size and Westpac Banking valuation on fixed management fee income.

# Buyer's agents can help selling agents close the deal

WORDS BY TONY COUGHRAN, REIQ BUYER'S AGENT CHAPTER MEMBER





*Selling agents have always been an integral part of a real estate transaction, so how is the emerging trend of the popularity of buyer's agents changing the landscape for selling agents?*

Buyer's agents and selling agents are not that different as both speak the same language, understand real estate intimately and work on getting the deal done. But a buyer's agent can be very helpful in a range of ways:

#### **QUALIFIED BUYERS**

No tyre-kickers here, buyer's agents only work with qualified buyers who are ready to act. Buyers might be aplenty in your neighbourhood at the moment but as the market fluctuates, maintaining solid relationships with buyer's agents can provide a great source of qualified buyers.

#### **KEEP 100% OF YOUR COMMISSION**

Independent buyer's agents won't stick their hand out for a slice of your commission. They are paid directly by the buyer. No conjunction necessary which means you don't have to share your hard-earned commission.

#### **REALISTIC EXPECTATIONS**

A buyer's agent understands the market and the value of a property just as well as you do. The other side is already educated on what the market is doing so when negotiation time rolls around no time is wasted managing unrealistic expectations.

#### **SMOOTHER TRANSACTIONS**

Sometimes chasing a buyer around once a contract is signed (or even when it's still at offer stage) can be a nightmare. Buyer's agents get it, they know what needs to be done and will effectively guide the buyer through the negotiation stage, and all of the paperwork and due diligence phases so that all you have to worry about is the seller's side.

#### **CONSTRUCTIVE FEEDBACK**

Providing your seller with feedback following an inspection is an important part of communicating with your seller. A buyer's agent is not just a market expert in your seller's price bracket. It's likely they have also been through all of the comparable properties that are on the market. Expect qualified and objective feedback following an inspection when a buyer's agent is involved.

#### **NO BUYER EMOTION**

Buying and selling property is a stressful situation even for the seasoned investor. A buyer's agent will guide the buyer and insulate them from the stress of the sales process. This will free you to deliver that superior service to your seller.

#### **OBJECTIVE NEGOTIATIONS**

Negotiating is a fine art. When two experienced parties commence negotiations and are speaking the same language, getting to a fair and equitable result can happen very quickly.

#### **GOOD REFERRAL SOURCE**

An independent buyer's agent doesn't sell property so what happens when their client/s are ready to sell? If they think you are the right fit for their client - they refer business back to you of course!



*Independent buyer's agents won't stick their hand out for a slice of your commission.*



# Zone Focus

*Continuing our state-wide zone focus looking at each area and what the year ahead may bring, Part 2 of our series will look at Brisbane's Eastern Suburbs, Redcliffe, Townsville, and Rockhampton. Part 3 will be published in our April edition and will look at Cairns, Gladstone, Gold Coast, Ipswich, Mackay, Northern Suburbs, and Toowoomba.*

## **ZONE: EASTERN SUBURBS**

WORDS BY ZONE CHAIR  
PETER BARRETT (PAT BARRETT REALTY)

There are two standouts for the Eastern Zone at the moment and they are the Toondah Harbour Redevelopment at Cleveland and the Shoreline Urban Village proposal at Redland Bay. Both are long-term multi-billion dollar projects and once completed will have a lasting impact on the residential property market.

The Toondah Harbour Priority Development Area (PDA) was declared by regulation on 21 June 2013 and the Shoreline development was approved by the Redland City Council in November 2015 and developers are citing a 10-year life span to completion.

There are numerous other construction/development projects popping up in the Eastern corridor including small lot housing, lot consolidation and in-fill development with a preponderance of unit/townhouse construction.

My 2016 crystal ball isn't that finely tuned, however if the last two quarters of 2015 are any indicator then the market should keep humming along nicely. There is anecdotal evidence of low listing numbers and some have seen the re-emergence of the southern state refugees escaping the hideous prices of Sydney and Melbourne.

## **ZONE: TOWNSVILLE**

WORDS BY ZONE CHAIR DAMIEN KEYES  
(KEYES & CO)

Jobs are the key driver of the real estate market and the redundancies from Queensland Nickel will be felt throughout the region. However, there are some projects on the horizon in Townsville that might help offset recent events, including Federal Government support through the Northern Australia Development Agenda.

The Townsville Eastern Access Rail Corridor (TEARC) will deliver efficiency to industry, increased capacity to the Port of Townsville, and will bring construction jobs to the region. The TEARC is the essential next step in the supply chain which connects the mines with global markets.

The Galilee Rail Corridor is a considerable piece of infrastructure that will unlock the next great coal province. Up to nine significant projects are in varying stages of development and would be supported by this multi user rail line. This is the embodiment of the nation-building projects necessary to achieve the goals of the Northern Australia Development Agenda.

Upgrading the Townsville-to-Mount Isa rail line will help improve rolling stock capital utilisation by increasing the average speed from 38km/h to greater than 50km/h. Rolling stock is approximately two-thirds of the total rail haulage costs from Mount Isa to Townsville, so improving the capital utilisation of rolling stock through reduced cycle times will have the largest impact on rolling stock efficiencies.



All three of these rail projects are considered imperative to support the growth of industry, and thus jobs and population, in North Queensland. These projects are the embodiment of appropriate investment which can be made by Governments to stimulate the private sector in North Queensland and will be amongst the region's highest priorities for accessing the \$5 billion Northern Australia Infrastructure Facility. Such rail infrastructure has a very long life and can contribute to growth now and generate a return over 40 years.

Expansion of Port of Townsville is an ideal project to be considered under the NAIF. Townsville is the natural distribution hub for the growing economy of Northern Australia. The breakwater is the essential first step, along with the associated swing basin and two berths.

The close of 2015 saw a flurry of sales activity in the Townsville property market with not only the traditional launching of homes to market in readiness for the January/February transferee buyer rush, but also lots of contracts of sale hitting the desk. Many of these sales were from local buyers looking to make the upgrade into a new family home with market conditions proving too ripe to ignore as many buyers cite softer prices and record low interest rates as being the big drivers in their decision.

We have also seen a similar start to 2016 with many agents reporting strong sales volumes in just the first two weeks of the year so it looks as though there are signs of confidence returning in more volumes to our property market than in the previous 12 months. With the last two quarters of 2015 showing a median house price in Townsville as holding steady this would be our strongest indication that prices have certainly hit the bottom and we will see the recovery phase of the property cycle start to take shape as we move into 2016.

## ZONE: REDCLIFFE

WORDS BY ZONE CHAIR  
JOSHUA KINDRED (KINDRED  
PROPERTY GROUP)

Moreton Bay Rail Link is a 12.6km double-track rail line to be built between Petrie and Kippa-Ring in the Moreton Bay region. The \$1.15bn project is being jointly developed by the Australian Government (\$742m), Queensland Government (\$300m) and Moreton Bay Regional Council (\$105m).

Scheduled for completion in 2016, the heavy rail project is expected to provide a safe and reliable transport network, ease congestion and reduce travel time into Brisbane's central business district (CBD).

The travel time from Kippa-Ring to Brisbane's CBD is expected to be 45 minutes while the same takes more than one hour by car. Nearly 6,000 people are expected to use the service daily.

Each full train is expected to take 600 vehicles off the road. The project is expected to create 8,430 jobs during its life.

Great opportunities are presenting themselves across Moreton Bay, with the Redcliffe Peninsula being the jewel in the crown. The long-awaited rail link continues to bring jobs, investment and positivity to the area. The community is growing stronger and brighter with more and more southeast Queensland residents making a "sea change" while maintaining excellent proximity to Brisbane.

Older homes are being refurbished and redeveloped while small business gains more and more confidence and Brisbane residents flock to make the seaside change. For locals, the area feels vibrant and positive with new development and opportunities, and is the always perfect culture and environment to live and build strong families.

## ZONE: ROCKHAMPTON

WORDS BY ZONE CHAIR  
NOEL LIVINGSTON (PROFESSIONALS)

The slowdown of the mining industry and the consequent loss of jobs has had a profound effect on our market over the last two years. Residential vacancy rates reached all-time highs and sale prices were relatively soft.

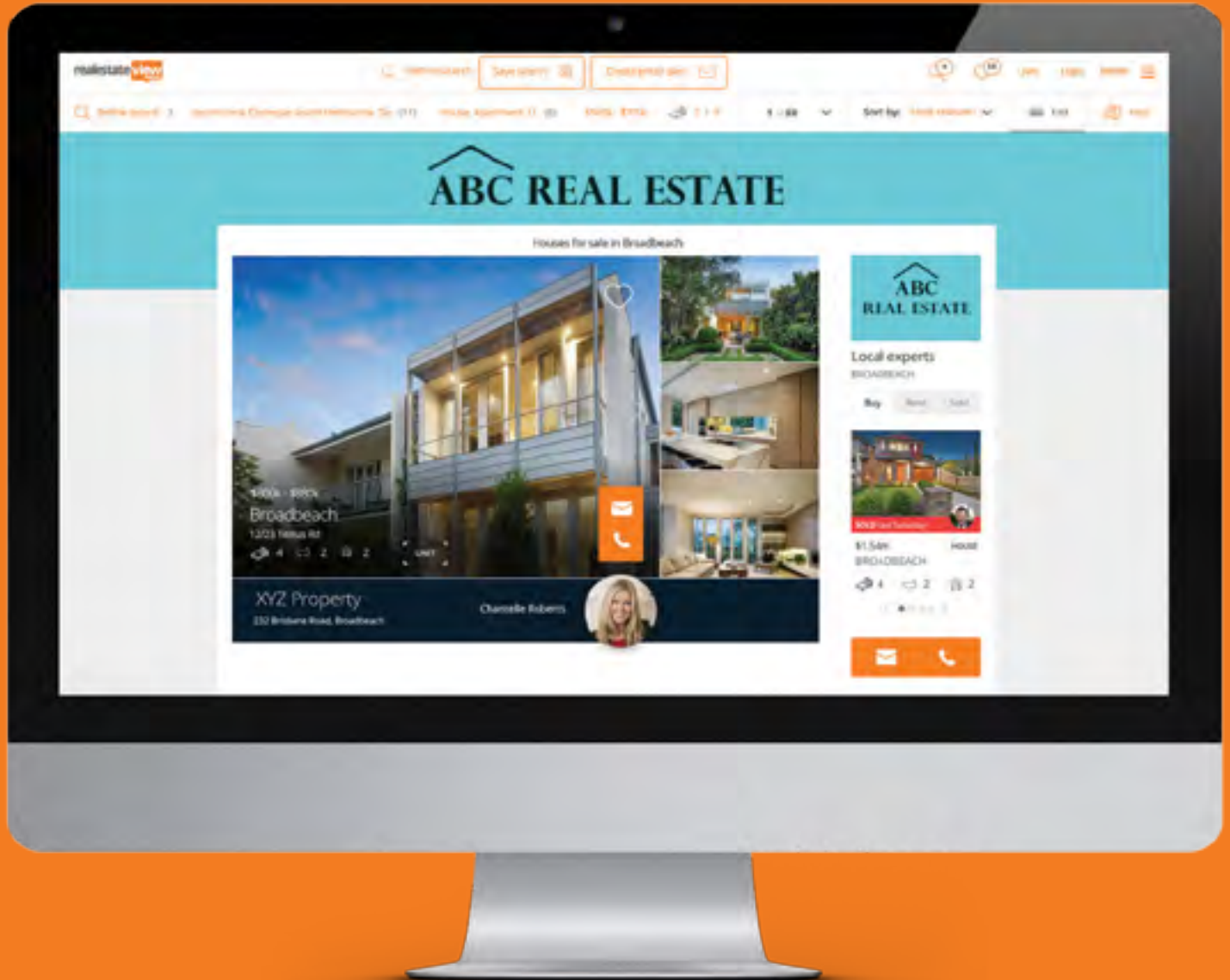
Fortunately our market is not solely reliant on the mining industry.

2016 has started very positively with demand increasing in the rental market and significant interest in the sales market particularly at the affordable end.

The beef industry is very important to our region and with rain finally arriving in the west and strong cattle prices being achieved the real estate market in Central Queensland will surely benefit.

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## Zone chair profiles



**Name:** *Damian Raxach*

**Zone:** *Fraser Coast*

**Agency:** *One Agency Damian Raxach*

### **How long have you been in real estate:**

Since 1995 (nearly 21 years)

### **How did you get your start in real estate and what led you to this point:**

I had just finished a degree in Criminal Psychology and didn't know what I was going to do. I was looking through (London daily newspaper) The Evening Standard on the Tube on my way home and an ad for a position in real estate jumped out at me – it was destiny!

I was so lucky – the pay was terrible (my Mum tried to stop me taking the job!) but I was employed by two great guys who mentored me so well and really kick-started my career with proper training and guidance.

After that I moved to a start-up company with a competitor and grew the business to have three offices in prominent central London locations.

When I came to Australia in 2003 I had a year off before joining Harcourts who I stayed with for 11 years before starting up my own agency in 2015.

### **What professional organisations do you belong to?**

The REIQ

### **Why did you choose to nominate for a zone chair role?**

I was encouraged to nominate by a colleague who felt I was right for the job as I am very passionate about real estate and how our profession is perceived by the public.

### **What are your hobbies?**

Hobbies? I have two kids and have just set up my own business!! Am I allowed to say sleeping? Honestly, football – soccer to you Aussies. I love the game and still play. It is a good way to stay fit as I get older too.

### **Tell us about your family:**

I am married to Denise. I met her in 1996 when she was backpacking in the UK. We were best friends for many years before we got together in 2002 and married in 2005.

We now have two kids: Deià our daughter is 8 ½ and is a mad crazy gymnast and Tom our son, has just turned four and currently thinks he is Spiderman!

### **Tell us about your pets:**

We have a 11-year-old rescue cat called Gin. Unfortunately his brother Tonic passed away last year!

### **If you could host a dinner party with four celebrities, who would you invite?**

Martin Luther King, Winston Churchill, Amy Winehouse, Walt Disney.

# Zone chair profiles



**Name:** Tom Quaid

**Zone:** Cairns

**Agency:** Quaid Real Estate

**How long have you been in real estate:**

Four years, with three of those years in a sales position.

**How did you get your start in real estate and what led you to this point:**

After finishing a double degree in Cairns I was looking to get some experience before making the next step in my career. At the same time, our commercial office was bringing to market a number of property portfolios so I came in as an assistant to our marketing manager. Within a short timeframe I was coordinating the administration of campaigns for dozens of properties – a bit of a baptism by fire but one that gave me a fantastic insight into the behind the scenes of property. I rapidly learned the ropes of contracts, the right media mix and the importance of thorough research – luckily all elements I had touched on in my studies.

After 12 months working in the business, I surprised both my family and myself by making the decision that property was the right career for me, starting as an agent in 2013. Focusing on residential sales in a market that was just beginning to recover, I cut my teeth on properties as diverse as rural residential lots, farms, beachfront apartments, development sites alongside your traditional house sales.

2 years on, I now lead the sales team, working to expand our residential business and pick up as many new skills as I can to offer a better level of service and help the rest of my team succeed. So far I've found this career to be hugely rewarding and I hope that through this new role I can continue to grow and show others the best side of Real Estate.

**What professional organisations do you belong to?**

REIQ, James Cook University Alumni, Golden Key International Honour Society

**Why did you choose to nominate for a zone chair role?**

In order to take a larger role in the community, gain more experience in a profession I'm passionate about and ultimately be able to provide a better level of service to customers and clients. I love what I do and think this is a chance to show others the benefits of real estate.

**What are your hobbies?**

Ballroom dancing, running, reading and spending time with family

**Tell us about your family:**

I am the eldest of five children aged between two and 25 and a third-generation real estate agent following my father and grandfather in the business. I've grown up watching my father work hard in this business and I'm finding the opportunity to work alongside him to be an interesting one, but rewarding. I learn so much just watching him! Both my mother and stepmother are incredible people who've managed to handle children and demanding careers with poise and class, making me very proud to call them parents.

**Tell us about your pets:**

No pets for me, just younger siblings! The kids have a staffy – Romeo, and two guinea pigs – Coco and Ralph.

**If you could host a dinner party with four celebrities, who would you invite?**

Robin Williams, David Bowie, Bernie Mac, Frank Sinatra. I have a feeling Robin would do the dishes.





# Starting out on the right foot: how to commence new managements and tenancies

WORDS BY MICHAEL GAPES, PARTNER, CARTER NEWELL LAWYERS

*As solicitors for the REIQ Professional Indemnity Scheme (underwritten by QBE Insurance and brokered by Aon Risk Solutions), we have observed that a large number of claims which are made against property managers arise from the property manager's failure to follow the lessor's instructions at the commencement of a new management or tenancy.*

In this article, we will go back to basics and outline some sound risk management practices which property managers should adopt when taking on a new management or preparing for a new tenancy.

## Taking on a new appointment

When taking on a new management, it is critical that a valid *Property Occupations Act 2014* (Cth) Form 6 appointment agreement (**the POA Form 6 agreement**) is executed by both the agency and the lessor. Property managers must ensure that the POA Form 6 agreement is signed before any management services are carried out (including advertising the property or showing the property to prospective tenants). A failure to have a valid POA Form 6 agreement in place before carrying out any property management services carries a maximum penalty of 200 penalty units (which equates to \$23,560).

It is strongly recommended that agencies use the POA Form 6 agreement available on Realworks (which includes a Property Management Schedule and Essential Terms and Conditions), as the Essential Terms and Conditions contain valuable warranties and indemnities in the agency's favour. A complete copy of the POA Form 6 agreement and all annexures must be preserved on file.

As part of an agency's due diligence process, a title search must be carried out to verify the registered proprietor of all properties they are engaged to manage. Property managers should also sight, and keep copies of, identification documents belonging to the lessor or the lessor's nominated representative.

All sections of the POA Form 6 agreement must be completed for the appointment to be valid. Careful attention should be paid to Part 7, which deals with commission, and Part 8, which deals with the property manager's authority to incur fees, charges and expenses without the lessor's prior approval. Specific dollar amounts must be included in these sections (not in the Schedule) for the appointment to be valid.

Also, it is recommended that property managers make it mandatory for their lessor clients to obtain appropriate insurance cover (including public liability, building, contents (if appropriate) and landlord protection insurance policies). Details of the lessor's insurance policies should be recorded at Item O of the Property Management Schedule.

Property managers should foster open and clear communication with lessor clients at the commencement of a new management. It is important that the property manager understands the lessor's expectations and preferences as to how the property should be

managed. Specifically, the property manager should take note of any special requirements communicated by lessor (such as instructions in relation to pets, preferred utility providers, contractors and the like). While property managers are prohibited from drafting any special conditions for inclusion in the POA Form 6 agreement pursuant to section 24 of the *Legal Profession Act 2007* (Qld) (**the LPA**), they may include special conditions which have been previously drafted by an Australian legal practitioner, or include special conditions which the lessor has provided in writing for inclusion or insertion into the POA Form 6 agreement. A breach of section 24 of the LPA could give rise to a maximum penalty of 300 penalty units (or \$35,340) or 2 years imprisonment.

## The tenancy application process

Property managers should be aware that pursuant to section 57 of the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) (**RTRA Act**), the rental rate for a property must be advertised at a fixed rate and not within a dollar amount range. Further, while property managers cannot charge prospective tenants an application fee, obtaining a deposit for providing a key to a prospective tenant is permitted under section 156.



Property managers often find themselves faced with allegations of discrimination from prospective tenants. Lessors and property managers are prohibited from discriminating against prospective tenants on the basis of gender, age, relationship status, race, impairment, religious or political views or sexuality (to list a few). For the avoidance of doubt, property managers should simply not refuse, impose stricter conditions upon or negatively treat any tenancy applications based upon any of the above factors.

In order to avoid inadvertent or ad hoc requests for information that may appear discriminatory, agencies should develop a tenancy application form precedent and provide that form to all prospective tenants. Property managers should thoroughly verify all matters disclosed in a completed tenancy application, including the prospective tenant's employment status and rental history, as well as obtaining written references from employers and character referees.

These documents must be preserved on file. Property managers must also carry out searches on tenancy databases and satisfy themselves that a prospective tenant is capable of meeting his or her obligations under the proposed tenancy agreement.

All suitable applications must be sent to the lessor without reference to any potentially discriminating factors for their consideration. Written instructions should be sought from the lessor as to the acceptance (or otherwise) of applications which have been submitted. In circumstances where it appears that a lessor may intend to instruct the property manager to reject an application on the basis of a potentially discriminating factor, the property manager should consider terminating the POA Form 6 agreement. Further, it is critical that property managers do not engage in any discussion with unsuccessful applicants as to why their application was unsuccessful.

### Commencement of the tenancy

Once instructions have been received from the lessor as to which application has been accepted, the property manager should proceed to prepare the tenancy agreement. The Form 18a General Tenancy Agreement (**the tenancy agreement**) is the prescribed form and it must be completed in full, signed, witnessed and dated in order to be valid. A complete copy must be preserved on file.

Property managers should give careful attention to ensure that all details and dates recorded in the tenancy agreement accurately reflect the lessor's instructions. Pursuant to section 62 of the RTRA Act, the property manager is required to provide the tenant with the tenancy agreement for signing on or before the day the tenant occupies the property. The tenant is thereafter required to sign and return the tenancy agreement to the property manager within five days, and the property manager must then provide the tenant with a copy of the entire executed agreement within 14 days after that. Further, under section 63 of the RTRA Act, the property manager is required to retain a copy of the agreement for one year after the term of the agreement ends.



*It is important that property managers invest time into building strong relationships with lessor clients.*

Property managers must complete a Form 1a Entry Condition Report on or before the commencement of the tenancy. The tenant is required to return the report with their comments within three days after they have assumed occupation of the property. It is crucial that the Entry Condition Report is completed with sufficient detail so that all maintenance and repair issues are fully documented. As the Entry Condition Report serves as a snapshot of the condition of the property at the commencement of the tenancy, property managers are encouraged to take the extra time and thoroughly inspect the property. It is also strongly recommended that photographs be taken at the time of the inspection, with a particular focus on any damage or maintenance issues, and retained on file.

Property managers should inform their lessor clients that pursuant to section 112 of the RTRA Act, the maximum rental bond which can be required is equal to four weeks rent. Once the bond has been received from the tenant, the Form 2 Bond Lodgement Form must be fully completed and lodged with the Residential Tenancies Authority (RTA) within 10 days of receipt, even if all signatures have not been obtained. Following this, the RTA will issue an Acknowledgement of Rental Bond to all parties to confirm the bond has been lodged with them. It is imperative that property managers provide this document, along with a copy of the tenancy agreement, to the lessor client as soon as possible.

### During the tenancy

Property managers must acquaint themselves with the relevant provisions of the RTRA Act in relation to entry notices. Relevantly, for routine inspections, property managers must issue a Form 9 Entry Notice on the tenant at least seven days prior to the intended date of entry. Further, there must be strict adherence to the time of entry and the persons attending the property as specified on the Entry Notice.

Where maintenance issues are identified by the property manager or where the property manager receives a complaint or maintenance request from the tenant which is likely to cost in excess of the property manager's limit of authority set out in Section 2 of Part 8 of the POA Form 6 agreement, it is important that the lessor is immediately informed in writing, with instructions sought as to how to proceed. In the event that instructions are not forthcoming from the lessor, the onus is on the property manager to actively follow up the lessor and document (in writing) each attempt to obtain instructions.

In the event that safety hazards are identified by the property manager or notified by the tenant, the property manager should take immediate action to ensure the area is cordoned off in order to prevent access and steps taken to notify the lessor and arrange repairs. Property managers should also acquaint themselves with section 214 of the RTRA Act which relates to emergency repairs.

### Tips for managing the relationship with your lessor client

It is important that property managers invest time into building strong relationships with lessor clients. Owing to the degree of trust and responsibility which a lessor invests in their property manager, the relationship can be difficult to navigate at times, especially in the early stages of a new appointment. As such, we offer the following best practice recommendations for building a strong lessor client relationship:

1. Build a rapport with your client by providing regular verbal and written updates as to the condition of the property and satisfaction of the tenant;
2. Ensure that you provide your client with a copy of all key documents including the POA Form 6 appointment agreement, the tenancy agreement, the bond lodgement form, the Entry Condition Report, photographs and routine inspection reports in a timely manner.
3. If a client provides verbal instructions, always confirm the instructions back in writing to ensure accuracy in your understanding;
4. Ensure that you are fully conversant with all legislative obligations of the lessor, the tenant and yourself as the property manager and ensure that you act in accordance with them; and
5. Document everything! Keep an up to date property management file in both electronic and hard copy form.

### Conclusion

If property managers are in any doubt about what their obligations are, they should refer to the relevant legislation and, if necessary, seek advice from the REIQ Property Management Support Service, which can be contacted on 07 3249 7347.

# Buyer ordered to pay over \$14 million in damages and interest for breach of off-the-plan contract

WORDS BY ANDREW PERSIJN, SENIOR ASSOCIATE, CARTER NEWELL LAWYERS

*Readers will recall that we have previously reported on two cases involving disputes that have arisen in relation to off-the-plan sale contracts.*

In the September 2014 Journal, we reported on a Federal Court decision in which the buyers of an off-the-plan apartment in the Hilton Hotel and Residences complex in Surfers Paradise were held to the contract that they had entered into, despite their claim that they had been induced into entering into it as a result of misrepresentations made by the developer's sales agent (*Lewis v Orchid Avenue Pty Ltd* [2014] FCA 739; *Buyers held to off-the plan contract: a win for the developer*).

In the November 2014 Journal, we discussed the decision of *Orchid Avenue Pty Ltd v Goode* [2014] QDC 217 (*Buyers released from off-the-plan contract: a cautionary tale for sales agents*), which saw a buyer succeed in being released from an off-the-plan contract on the basis that the agent had engaged in misleading and deceptive conduct by making verbal representations regarding the rent return for the property.

In this article, we report on a recent Supreme Court decision, *Juniper Property Holdings No 15 Pty Ltd v Caltabiano* (No 2) [2016] QSC 5, which involved an off-the-plan contract for the penthouse in the Soul development at Surfers Paradise and allegations of misleading and deceptive conduct against the agent involved.

## Background

From before April 2006, Juniper Property Holdings No 15 Pty Ltd (**the plaintiff**) marketed, constructed and sold units off-the-plan in the Soul development at Surfers Paradise. On 19 July 2006, Mr

Carmelo Caltabiano (**the defendant**) and the plaintiff entered into a contract of sale for the 1,043 square metre, yet to be built, penthouse apartment for the purchase price of \$16.85 million.

The original contract of sale was rescinded and replaced with a second contract in similar terms on 18 May 2007 (**the contract**). On 7 June 2012, the plaintiff became the registered owner of the lot that comprised the penthouse. The plaintiff proceeded to give notice to the defendant that settlement was to occur on 10 August 2012.

On 9 August 2012, the defendant requested an extension for the date of settlement until 10 September 2012, which was agreed to by the plaintiff. The defendant failed to attend at the agreed place and time for settlement. Despite being issued with two further Notices to Complete by the plaintiff, on 18 October 2012 and 19 March 2014, the defendant failed to attend the time and place nominated for settlement each time.

On 19 March 2014, after the defendant failed to settle for the third time, the plaintiff elected to terminate the contract, declared the deposit forfeited and reserved its rights otherwise. The plaintiff resold the penthouse on 7 April 2015 for \$7 million.

The plaintiff commenced proceedings against the defendant on 5 June 2014, claiming:

1. a declaration that the deposit of \$1,683,000, together with any accrued interest, is forfeited to the plaintiff;

2. interest under clause 15.6 of the contract in the amount of \$3,843,184 as a debt;
3. damages for breach of contract in the sum of \$8,817,522;
4. interest on those sums; and
5. costs.

On 18 July 2014, by defence and counterclaim, the defendant purported to rescind the contract alleging misleading and deceptive conduct by Mr Justin Daniels, an employee and agent of the plaintiff, in contravention of section 52 of the *Trade Practices Act 1974* (Cth), which was in force at the relevant time.

## The alleged misrepresentations

On 22 April 2006, the defendant met with Mr Daniels at the plaintiff's sales office and discussed the penthouses in Soul that were for sale. The defendant alleged that during that meeting he advised Mr Daniels that any offer would be conditional upon the plaintiff providing satisfactory evidence to the defendant that "*the sum of \$16.85 million was reasonable value for the penthouse*".

The defendant also alleged that during a telephone discussion with Mr Daniels on 24 April 2014, Mr Daniels had made the following representations in response to his request for proof of the value of the penthouse:

1. The penthouse in the Gold Coast beachfront Jade complex had been sold for \$20 million;



2. The Soul penthouse was better than the Jade penthouse, as the Jade penthouse was of a similar floor area but the complex was only 15 stories high and flanked by two buildings that impacted on the view; and
3. The Penthouse in the Q1 complex was sold in 2002 for \$7.8 million and was half the floor size of the Soul penthouse.

The defendant submitted that the representations were false as the Jade penthouse had not been sold, either for \$20 million or at all, and the Q1 penthouse was not half the floor size of the Soul penthouse.

The defendant was unable to offer any written record or contemporaneous file notes of his meeting or telephone discussion with Mr Daniels. The defendant's evidence was that he was satisfied with the information allegedly provided by Mr Daniels and made no further inquiry or sought any advice regarding the valuation of the Soul penthouse, even to the extent that he did not read the newspapers in an attempt to validate the accuracy of Mr Daniels' representations about the sale prices of the Jade and Q1 penthouses.

The plaintiff denied that the representations were made as alleged by the defendant.

The Court stated that *"At first blush, it is an incredible story"*. The Court added that a remarkable feature of the defendant's case was that despite alleging that he became aware that the representations were false in April 2012, he did not raise the issue of misrepresentation until filing his defence and counterclaim. The defendant alleged that he told his solicitors about the alleged representations sometime after April 2012, but the Court found that the evidence did not support his allegations.

In accepting the evidence provided by Mr Daniels and the plaintiff, the Court held that the defendant failed to prove on the balance of probabilities that the alleged representations were made regarding the penthouses in Jade and Q1.



### **The defendant's reliance on the misrepresentations**

The Court stated that in the event that it was wrong in finding that the alleged representations were not made, the defendant would still have to prove that he relied upon the representations in entering into the contract.

The Court stated that the onus is on the defendant to prove on the balance of probabilities that he relied upon the alleged representations from Mr Daniels. The defendant, in attempting to justify his reliance on the alleged representations, stated that he had a high regard for the plaintiff and saw the plaintiff as knowledgeable in the marketplace.

The defendant submitted that the fact that he did not obtain external advice as to the value of the Soul penthouse only served to emphasise the reliance he placed on the alleged representations.

In considering the defendant's submissions regarding his purported reliance on the alleged representations, the Court gave particular regard to the commercial awareness of the defendant. Relevantly, the defendant was described as a commercial businessman who had previously made large property and business acquisitions and had a team conduct extensive due diligence on those acquisitions.

Accordingly, the Court held that it would be *"commercially illogical and inherently improbable that in deciding*

*upon a \$16.85 million purchase the defendant would not have obtained such advice [as to the value of the Soul penthouse] because of reliance on the alleged representations made by the plaintiff's sales consultant, comprising comparisons with properties that the defendant did not know anything about."*

The Court held that the plaintiff was entitled to the orders it sought and dismissed the defendant's counterclaim. The Court ordered the defendant pay, to the plaintiff, the sum of \$14,132,246 including interest of \$1,471,509 as well as the plaintiff's costs of the proceeding.

### **Best practice**

Often, the developer or agent comes out "second best" in defending consumer claims based upon alleged representations. However, in this instance, the Court showed that it was far less sympathetic towards a commercially astute buyer who failed to carry out proper due diligence in order to satisfy himself as to the value of a property.

As a best practice recommendation, agents should always recommend to prospective buyers that they seek their own independent advice and make their own inquiries regarding the value and suitability of a particular property. Adhering to these practices will significantly minimise the risk of buyers attempting to avoid contracts on the grounds of false or misleading representations by the agent.



# Our Members



**Name:** Clint Hynes

**Membership:** Individual member

**How long have you been in the real estate profession for?**

3 years, 4 months.

**What does REIQ Membership mean to you?**

Extremely helpful when requiring oversight and assistance with contracts, especially arguing legalities and the best path to follow to help your clients. Also assists our family business with recruitment and the endorsement is something you can assure your clients with.

**Can you name a person who has had tremendous impact on you in your career?**

My mother and father, Sally and Greg

Hynes. I got my work ethic from them and learned about relationship building, the reputation of our agency and its standing in our local community.

**What characteristics do you believe every leader should possess?**

Compassion, humility and the ability to lead by example.

**What do you consider your greatest achievement?**

In real estate, being the fastest agent to achieve Elite Status with Ray White.

**What do you love most about the profession?**

You are only limited by your own personal ambition.



**Name:** Melissa Sullivan

**Membership:** Student member

**How long have you been in the real estate profession?**

I started in real estate 15 years ago as a property manager. Within two years I opened a franchise in Adelaide, with my then-business partner Maria.

Unfortunately, my career was put on hold after I broke my ankle three times. After seeing an orthopaedic surgeon for my ankle, I later had to have my lower leg amputated. In 2014, I had to have more of my leg amputated. This took me away from my business. I had to sell my share and focus on rehab. Through all of this I wanted to return to real estate.

**What does REIQ Membership mean to you?**

REIQ membership is very valuable due to the resources that a principal, sales agent or a property manager can tap into. I have had to renew my certificates at the REIQ and they have been brilliant.

**Who has had tremendous impact on you in your career?**

My principal, Kevin Hodges taught me to be a quality sales person. He is amazing, caring, patient, and incredibly knowledgeable.

**What do you consider your greatest achievement?**

Making the Australian para canoe team as a sprint canoe/kayaker and becoming World Champion 2014. I was proud to be able to bring home three gold medals. Also having two amazing children and my partner, Fred who has shown me that love is unconditional.

**What is your favourite saying?**

Anything is possible - if you ever have the opportunity to help and inspire people, then do so. Be amazing!





# Member Feature



**Name:** Ian Salter

**Membership:** Individual member

*When you're the only competitor, did you really win?*

*REIQ Business Broker of the Year Ian Salter says, "Hell, yes!" and throws down the gauntlet to the big agencies.*

There is less satisfaction in winning a one-horse race, than there is winning a competition where you have to fight and push yourself to win. So, as the only finalist in the 2016 REIQ Business Broker of the Year Award, I can say that I would have rather won the accolade under more competitive circumstances.

Moments after my name was announced as the winner the little voice inside my head was saying, "Ian you could look at this one of two ways. One: 'There are no other nominees. Yahoo! You're the winner!' Or, two: 'Ian, you work bloody hard as a business broker and you deserve this.'"

While accepting the award I realised that awards are more special and more valued if they are won against a worthy opponent (or opponents).

So I want to challenge all business brokers and their principals to nominate for the 2017 REIQ Awards for Excellence. Not only will it make for a better competition, but the competition amongst us will raise standards, and improve our standing in the community.

This is important – not only for business broking, but for all areas of real estate.

Business broking sometimes feels like an unwanted appendage (or a wart) on the real estate profession, and when there is only one nominee for a category such as Business Broker of the Year, it is understandable that the sector will be viewed as a minor offshoot.

If the category received 10 nominees each year, the perception would be different. So it's up to us to nominate, and create more competition amongst our peers, and thereby raise the profile and standards within our sector of the real estate spectrum.

Business brokerage is difficult (as is real estate), so it was a highlight of the night for me when REIQ Chairman Rob Honeycombe posthumously inducted fellow business broker Gil Wright into the Life Membership. Gil passed away in June 2015 but Gil's legacy will live on through the REIQ.

Rob spoke about the illustrious life and contributions that Gil had made – he wanted to raise the standard. I also took the opportunity when I was at the lectern to add that Gil was the guru of business broking, and in fact introduced business broking to the REIQ. Gil typified what the REIQ stands for: support, governance, education and information.

The contributions of people such as Gil Wright must be honoured and revered, and awards events such as the REIQ Awards for Excellence give us the opportunity to do just that. Next year I hope that there is a lot more competition for the awards – in all categories.

*When you're the only competitor,  
did you really win?  
"Hell yes!"*



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# Done Deal

*Carmody Road, St Lucia QLD - Dixon Family Estate Agents*

## Agency

Dixon Family Estate Agents

## Sale Price

Range - \$1,050,000 to \$1,100,000

## Sale type

Sold at Auction

## Where is the house?

Carmody Road, St Lucia

## Tell us about the property:

This beautiful property is positioned along a quiet side road in the heart of St Lucia, within walking distance of Ironside State School and the University of Queensland. The major selling attribute of the property was the beautiful bushland setting, providing privacy and a parkland environment. The home was recently renovated and was spread over three levels.

## How did you secure the listing?

Dixon Family Estate Agents are inner-city property specialists. We know the value of the properties and have a proven track record in this price range.

## What were the marketing strategies used?

Given the active price band and excellent location we recommended the sellers auction the property. The marketing was targeted to families. We used digital marketing including upgraded internet listings and interactive property brochures. The buyer was forwarded the link to the property from one of our previous clients, whose friend was relocating from interstate.







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for you** 



### What is easyBondpay?

EasyBondpay is an exciting new bond payment facility for tenants and property managers looking to streamline the bond payment process.

Your tenants can pay their bond over 6 or 12 monthly instalments, with guaranteed instant approval and **same business day** electronic payment of the full rental bond direct to your trust account.

Our web application platform is user friendly, with an easy 1 minute, online application enabling you to provide a secure, efficient monthly instalment option at the point of property tenancy application.

Backed by secure payment processing systems, easyBondpay is a proven tool for securing new tenants faster, increasing your service offering while maximising revenue and efficiencies from the application process.

### How does it work?



The tenant is approved for rental by you and opts to pay their bond monthly with easyBondpay.



You submit your clients easy 1 minute online application for instant approval.



We remit the bond electronically the very same business day in to your trust account.



That's it! We manage the client's instalments until the bond has been repaid in full.

### Make bond payments EASY with easyBondpay.



EASY 1 MINUTE INTERNET APPLICATION



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INSTANT APPROVAL



NO SUPPORTING DOCUMENTS REQUIRED



SAME DAY, FULL BOND PAYMENT



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EasyBondpay is a product of Principal Finance, an independent finance provider offering a range of leading edge finance products, which also include premium funding and fee funding.

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## **Joanna Boyd**

Joanna is the lead Client Relationship Manager within the Aon Real Estate Team in Queensland. She has over 12 years' experience within the Queensland property and real estate market, including time working as a registered real estate agent.

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