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Industry through its members
and the Community*

**ACT FIRST HOME
LOANS RISE**

The new first home buyer
concession scheme

**BUYERS AGENTS: THE
OTHER SIDE**

What you
need to know

**2019 AWARDS FOR
EXCELLENCE GALA DINNER**

The 2019 REI ACT
Awards for Excellence



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Awards

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Corporate Governance

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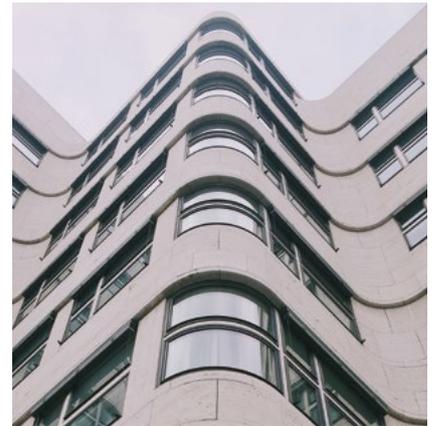
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The market is still a bit subdued but is showing positive signs for the expected Spring activity. Auction clearance rates are good and quality homes and units are getting scarce. The ACT Government's new first home buyers' scheme is working well and the industry has seen a resurgence in this market since July 1st.

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Congratulations to all of our winners and finalists for the 2019 REIACT Awards for Excellence. The 25th Awards for Excellence Gala Dinner, with over 320 guests was held on Saturday 14th September at the QT Hotel. The night was a true celebration of all the nominees for the 30 Awards presented on the night.

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It is estimated that over 2.5 tonnes of waste is generated per ACT resident. This is one of the highest per capita rates of any state or territory in Australia. And while around 70% of this waste is recovered through recycling and other recovery methods, waste needs to be managed effectively for the benefit of local residents and the broader environment.

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One step forward, two steps back 22

Protecting the rights of both landlord and tenant is a delicate balancing act. The Residential Tenancies Amendment Bill 2019 (the Bill), introduced into the Legislative Assembly on 26 September 2019, builds on upcoming changes to the residential tenancies legislation and is aimed at increasing the rights of the tenant. But has the ACT Government overcompensated? Is there an equal balance between the rights of the tenant and that of the landlord?

Investing in property? It's not just about purchase price and rental returns 25

For most Australians, the largest purchases that they make are property related. Whether a first home or investment property, the thrill of the purchase is always there. Whilst the emotional connections to your home continue to develop every day, the purchase of an investment property can become a distant memory and throw up uncertainty once it simply becomes an investment.

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Land, land, land. A major shortage of current and future industrial land opportunities is driving away small, medium and large local and international companies looking to invest in the region. With agents noting the lack of available land being a major problem, with numerous requirements especially from 500sqm to 4,000sqm and to a lesser degree up to 10,000sqm with even larger requirements simply not able to expand in the market.

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Access Canberra is committed to delivering consumer confidence in the real estate industry. Each year, licensed real estate agents must report on the handling of trust account money.

ACT Revenue 39

Land Tax in the ACT has changed from 1 July 2018. Previously land tax was charged on properties which were rented.

Why workplace bullying is a serious business risk 41

Recent research shows that claims relating to bullying or harassment cost Australian organisations up to \$36 billion a year through lost productivity, increased absenteeism, poor morale and time spent documenting or defending a claim.

Are you in a super fund you can trust? 42

The Royal Commission into the banking and financial services industry shone a light on shocking profit taking practices in the retail, or bank-owned, sector of the superannuation industry. An epidemic of high fees, low returns, and conflicts of interest was uncovered.

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PRESIDENT REIACT Michael Kumm

Spring has sprung!

The market is still a bit subdued but is showing positive signs for the expected Spring activity. Auction clearance rates are good and quality homes and units are getting scarce. The ACT Government's new first home buyers' scheme is working well and the industry has seen a resurgence in this market since July 1st. Of some concern is the lack of stock, the Allhomes figures show a slow but persistent decline in properties for sale. My expectation is that this decline will cease once the temperature starts to increase. It is also interesting to note that a large percentage of the market is owner occupied stock with owners looking to purchase back into the ACT market, be it to either downsize or upgrade. Some quick stats from the REIA Housing Affordability Report June Quarter 2019:

- Housing affordability in the Australian Capital Territory declined over the June quarter with the proportion of income required to meet home loan repayments increasing to 20.6 per cent, an increase of 0.3 percentage points over the quarter but a decrease of 0.3 percentage points compared to the same quarter last year.
- The number of loans to first home buyers in the Australian Capital Territory increased to 408, an increase of 4.1 per cent over the quarter but a decrease of 24.2 per cent compared to the June quarter 2018.

- Rental affordability in the Australian Capital Territory, improved marginally over the June quarter with the proportion of income required to meet the median rent decreasing to 18.9 per cent, a decrease of 0.1 percentage points over the quarter but an increase of 0.3 percentage points compared to the June quarter 2018.

The enactment of the changes to the Residential Tenancies Act will come into effect of 1st November 2019.

Do not put your head in the sand as these changes will impact your property management section and also, by default, your sales team when they come to sell a rented property or advise a potential new landlord of his rights and obligations.

The Government released its Fact Sheets on 3rd of October and a copy of these fact sheets can be found at: <http://www.justice.act.gov.au/page/view/4063/title/residential-tenancies-amendment-act-2019>.

A copy of the Over View Fact sheet is contained in this newsletter.

The Institute will be holding training courses in late October and early November to assist members with reviewing the legislation changes and ACAT proceedings, given the onus is now weighted heavily on Landlords to defend their decisions in relation to pets, modifications and rent increases.

Let's hope the ACT Government triples the size of ACAT or else it could take

weeks or even months to get an answer on a simple request as they are now the sole judge and Adjudicator!

In my capacity of President of the REIACT I have been attending meetings of the CERG committee which is the Community Expert Reference who work alongside the Asbestos Task Force in assisting in the few cases where owners are at this stage not participating with the ACT Government. I mentioned in the last newsletter that some of these properties are being managed by our members and caution is required when tradespeople are sent to attend to maintenance issues.

A quick update on the Mr Fluffy blocks:

- There were 1024 affected properties and 17 impacted properties.
- 1009 owners are participating in the program and 953 properties have been demolished through the program and 26 properties have been demolished privately.
- 46 owners took the first-right of refusal option and 5 blocks were sold to the ACT Government.
- To date there have been 792 public sales.

It must be remembered that the valuations for all affected properties is October 2014, and owners waiting for the market to drop are only getting further away from their desired goal.

Michael Kumm
President REIACT

The REIACT Awards for Excellence celebrated its 25th year, with nominations received for a record 29 categories.



CEO REIACT Michelle Tynan

Congratulations to all of our winners and finalists for the 2019 REIACT Awards for Excellence. The 25th Awards for Excellence Gala Dinner, with over 320 guests was held on Saturday 14th September at the QT Hotel. The night was a true celebration of all the nominees for the 30 Awards presented on the night. All of the winners and finalists must be commended on the quality of their submissions and interviews. Each year, our judges applaud the standard of submissions and this year was no exception. It is to this point I would also like to thank our judges. Our judges come from all over the country and are committed to what can be a very difficult and time-consuming process. They give their time voluntarily, and having judged other REI Awards for Excellence myself for the last two years, I do understand the complexity and importance of the commitment undertaken. This year, we had requests from some of our judging panel for extra time – a testament to the quality of the submissions put forward by our nominees. But, as the old saying goes, there can only be one winner. Nineteen of our category winners are now eligible for the 2020 REIA Awards for Excellence to be held in Darwin on the 2nd April 2020.

A highlight of the evening was the return of the Charity Auction. The 2019 Canberra Raiders Signed Jersey attracted some fierce bidding after the Raiders nail biting win over the Melbourne Storm earlier in the evening. A huge thank you goes to

our successful bidder, Guy Randell of Burgess Rawson ACT. Guy has donated the proceeds of \$2700 to the Ricky Stuart Foundation. A special note of thanks to Troy Thompson from L J Hooker Gungahlin for organising the signatures.

The Australasian Auctioneering Championships will be held in Melbourne 22nd – 24th October. Alec Brown – Ray White Canberra and Jenna Dunley – L J Hooker Kippax will represent the REIACT. Sandra Masters will again represent REIACT on the judging panel. For Alec, this will be his third consecutive year representing this ACT at the Championships and after finishing second to Andrew North last year, he is committed to bringing home the trophy in 2019. Jenna is only the fourth female competitor in the Australasian event and, and just like Alec, has the number one finish in her sights. The Auction Chapter have set a stringent training schedule for Jenna and Alec. Every Wednesday at 11-00am the Chapter meets at Nara Peace Park to put them both through their paces with scripted sequences, challenging their skills in all competition aspects. The ACT is unique in this approach, with other states unable to replicate the comradery and commitment to improve the standard of auctioneering across the brands. The ACT has turned an individual pursuit into that of a strong team culture with a common goal. If you would like more information about the Australasian Championships go to: <https://www.auctionchampionships.com.au/>



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ACT NoWaste team



Contaminated bins lead to cluttered and hazardous waste disposal areas and this often results in disgruntled neighbours, confused new tenants, pest problems and poor-quality recycling.



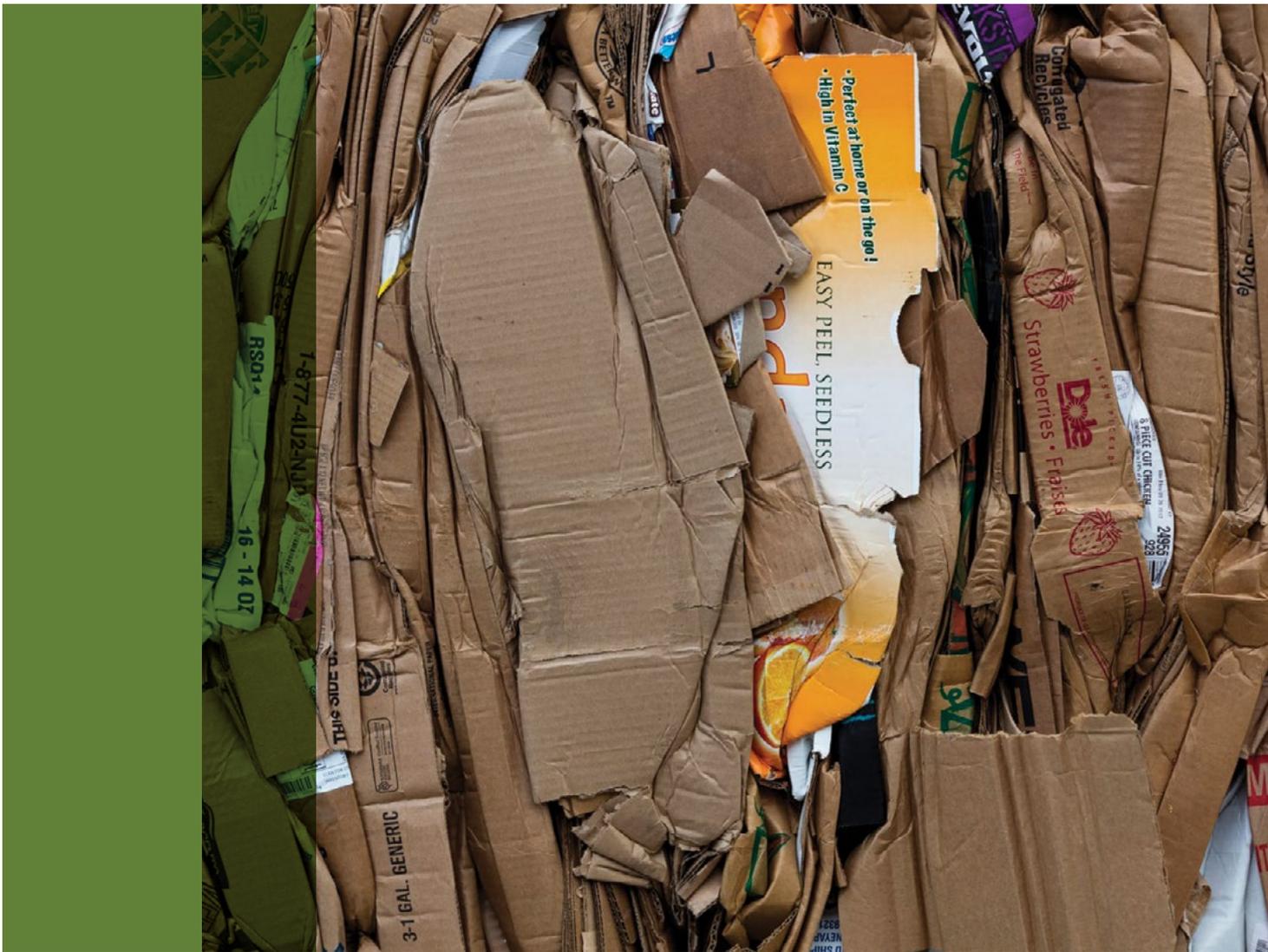
HOW WE MANAGE AND AVOID WASTE IS IMPORTANT AND IS EVERYONE'S RESPONSIBILITY.

It is estimated that over 2.5 tonnes of waste is generated per ACT resident¹. This is one of the highest per capita rates of any state or territory in Australia. And while around 70% of this waste is recovered² through recycling and other recovery methods, waste needs to be managed effectively for the benefit of local residents and the broader environment.

The transient nature of a large segment of the ACT population along with variations in recycling practices across the nation, poses many challenges and highlights the importance of providing ongoing education for waste management services and facilities for the ACT community.

ACT residents are enthusiastic recyclers and get it right almost 90% of the time³. However, with recent changes to recycling requirements we all need to make small adjustments to our recycling routines to ensure we have clean and uncontaminated recycling. Contaminated bins lead to cluttered and hazardous waste disposal areas and this often results in disgruntled neighbours, confused new tenants, pest problems and poor-quality recycling.

To support your tenants in managing waste, particularly during high times of stress such as when moving in and out, we have a range of resources including brochures for both single and multi-unit dwellings. The brochures entitled 'Are You Recycling Right' and 'Cleaner Apartment Living' promote the responsible disposal of household waste and provide information about



services, facilities and resources for residents. The 'Cleaner Apartment Living' brochure can also be customised with your company logo or contact details on the front.

Signage for bin rooms and chutes can also be ordered free of charge by completing the order form listed on our website or downloading the posters.

The ACT Government's newly updated Recyclopaedia is a fantastic A – Z guide to recycling and waste disposal. From aerosol cans to x-rays, the Recyclopaedia provides the helpful advice on waste disposal with an emphasis on recovering valuable resources and materials.

There are also a range of online resources to support the community to recycle right and manage waste such as;

- printable guides for what goes in each bin
- recycling fact sheets and
- translated recycling guides in Arabic, simplified Chinese, traditional Chinese, Dinka, Greek and Hindi
- ACT Bin Collection Calendars

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CANBERRAN'S WALK, RUN OR NORDIC WALK BUT KEEP MOVING FOR PARKINSON'S



Every day in the nation's capital and surrounding areas approximately 1500 people and their families wake up knowing they have to face another day of living with an illness that constantly takes from them. They know there is no cure and that their symptoms will progress over time and yet they keep fighting - they are fighting Parkinson's disease.

It has long been thought of as an "old person's illness" but reality is that of the 1,500, in our community, approximately 300 are diagnosed under the age of 50. They are still working, raising children and paying mortgages. They fight to hold onto their health, so they can live their best life they can for as long as they can.

Parkinson's ACT (PACT) is excited to announce that this year's Walk in the Park is different, along with our traditional walk for people with Parkinson's we are having a community Bridge -to -Bridge 5km Fun Run, and the first ever officially-timed Nordic Walking race in **Australia**. Beginning and ending at Rond Terrace on the edge of beautiful Lake Burley Griffin, **Sunday the 20th October 2019**. So, grab your friends, family, work mates, even your dogs are welcome on a lead - and get behind those people living with Parkinson's in your community

PACT and its dedicated committee of ten volunteers are working tirelessly to support as many people and their families who live with Parkinson's.



We know there is more that can be done by means of activities for the Young Onset through education and awareness. PACT receives no government funding and relies on the success of their biennial 'Walk in the Park' to raise not only awareness for Parkinson's but funds to keep programs running to increase support for our newly formed 'Young@Park' group as a priority.

Jen Harkness said "I have lived with Parkinson's for 5 year, diagnosed at 48. I am what you refer to as Young Onset Parkinson's. I first noticed symptoms, like loss of smell and a stiff shoulder when I was 44 but ignored them until my symptoms progressed to the point, I had a tremor in my left arm and leg.

Medication and exercise have managed my symptoms so far. I know this won't be the case forever and plan on fighting and staying as positive for as long as I can. Since my diagnosis I have met a lot of people younger and older than myself who live with the effects of this illness. Besides Parkinson's we all have two things in common we are not fans of Parkinson's and we all want a cure or at least something that will stop the progression. So, the Walk in the Park is a great opportunity for the community to come together have some fun and support People Living with Parkinson's".

PACT welcomes anyone who would like to volunteer or offer sponsorship, please contact us at actparkinsons@gmail.com or register at www.parkinsonsact.org.au

"The Walk in the Park is a great opportunity for the community to come together have some fun and support People Living with Parkinson's".



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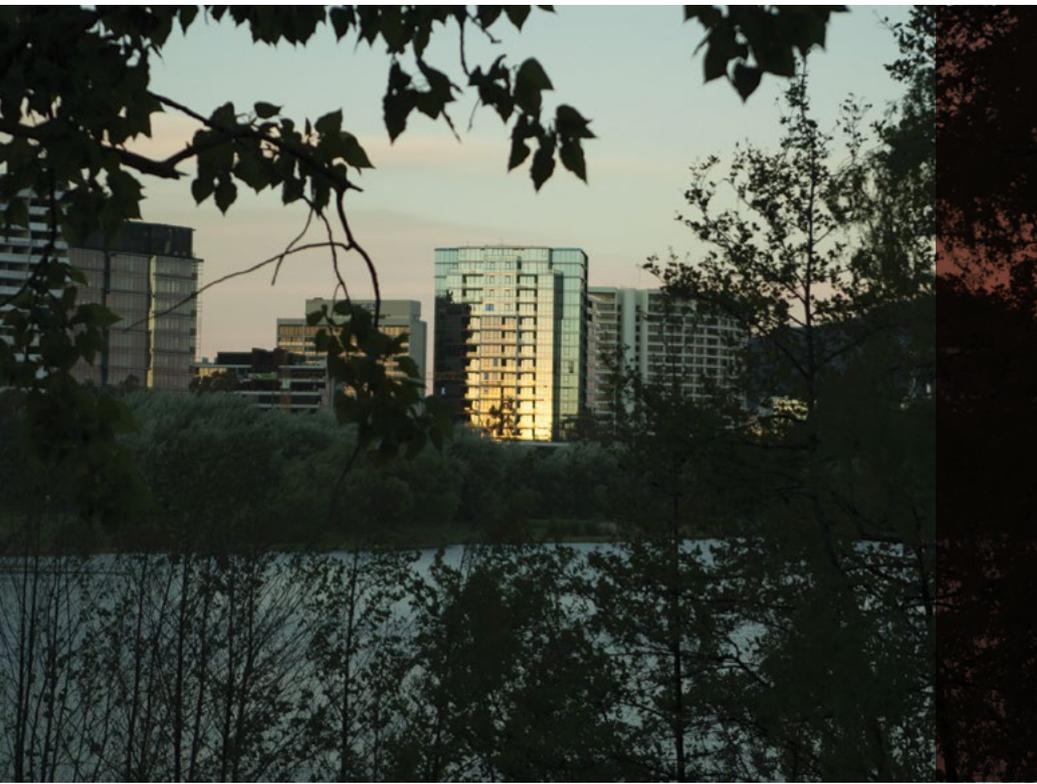


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ACT FIRST-HOME LOANS RISE SIGNIFICANTLY IN FIRST MONTH OF STAMP DUTY ABOLITION

Lucy Bladen

The first month of Canberra's new first-home buyer concession scheme saw a significant rise in the number of first-home buyer loans in the territory, according to figures released on Monday.

Australian Bureau of Statistics showed the number of first-home buyer loan commitments in July was 225 – an increase of 56 per cent on June.

First-home buyers represented 27.4 per cent of all loans in the territory, an increase of almost 5 per cent. Master Builder's ACT chief executive Michael Hopkins said the figures indicated the concession scheme had had an immediate impact.

"[The] figures illustrate that the ACT government's decision to remove stamp duty has had a positive immediate impact on the number of first-home buyers," he said.

"First-home buyers remain a vital driver within the Australian housing market and [the] figures show that lowering taxes in a targeted way can have positive social and economic impacts."

The first-home buyer lift could also be contributed to prices coming off their December-2018 peak, according to Domain research analyst Eliza Owen.

"There was a period where we saw prices had risen fairly consistently, so that may have discouraged first-home buyers [but] prices have come off their peak and that encourages more first-home buyers."

Canberra's new first-home buyer concession scheme came into effect on July 1. The new scheme saw stamp duty abolished on all properties for first-home buyers under an annual household income threshold of \$160,000.

Previously, concessions for first-home buyers in the nation's capital applied to new builds only.

During the initial days of the scheme, it was reported that first-home buyers had already taken advantage of the changes.

The scheme was first announced in the 2018-19 ACT budget and after the announcement, first-home buyer loan

commitments in the territory trended lower than the national average.

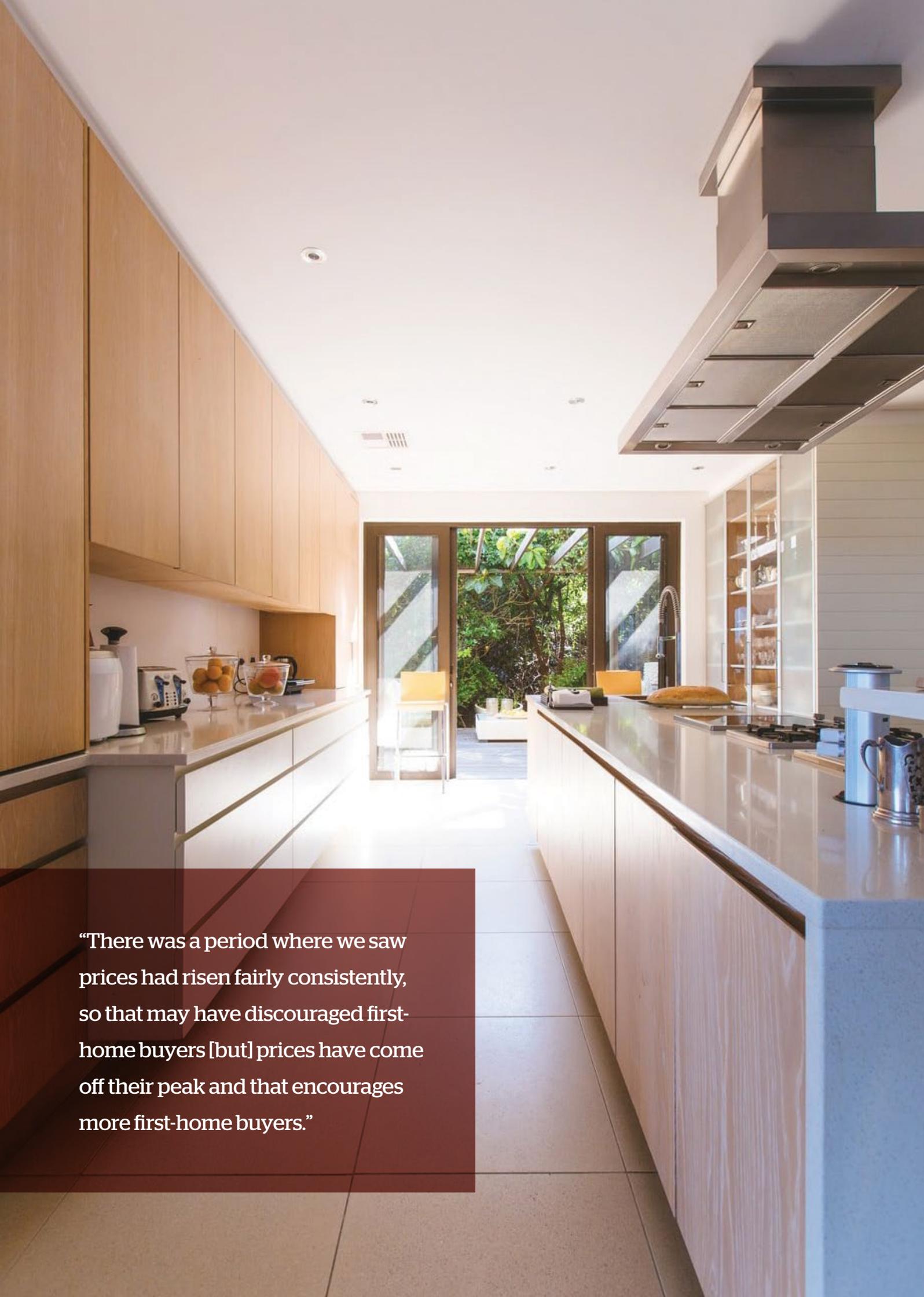
In the first six months of 2019, first-home buyer loans in the ACT were down 35 per cent on the same period last year. But, in that time, first-home buyers were also contending with tighter lending criteria due to the Financial Services Royal Commission.

When similar schemes came into play in NSW and Victoria, both states recorded a spike in first-home buyer loans, up 50 per cent and 30 per cent, respectively, during the first six months of their schemes.

Ms Owen said the changes could cause prices to rise at the entry level.

"There is the risk that because these concessions are directed strictly towards house purchases, any concessions could be added to the price of the property," she said.

"First-home initiatives can have an inflationary impact on the lower end of the market where first-home buyers are buying."



“There was a period where we saw prices had risen fairly consistently, so that may have discouraged first-home buyers [but] prices have come off their peak and that encourages more first-home buyers.”



AUCTION CHAPTER



Peter Walker
Auction Chapter Chair

It was never expected that my acceptance to an offer to undertake auctioneer training with Mark Larmer and Andrew Potts, both of Independent Property Group, would evolve into the evolution of the REIACT Auctioneering Chapter. However, understanding the "why" behind this group alludes to its early success and its expected continuance.

Holding firmly to the belief that selfless acts reward us in unexpected ways, the value of us training together, irrespective of skill, encourages collaboration, friendly competition, the sharing of ideas and the building of self-confidence. While it is beneficial when those involved offer differing opinions and styles, allowing for greater diversity and more shared thoughts, unfiltered and genuine feedback seems equally important for growth and improvement.

Now, almost six years on, the REIACT Auction Chapter has as many as fifteen auctioneers of varying degrees of competence and experience, practicing together, offering feedback and seeking to assist each other improve in ability.

A major factor has been the willingness of auctioneers, from competing agencies, to practice together, share their own ideas and agree to be brand neutral. I doubt there are many states where auctioneers from Ray White and LJ Hooker & Laing & Simmons, come together and train with auctioneers from strong local brands, including Independent, Peter Blackshaw and other auctioneers running their

own businesses, including Auction Advantage and Total Property Sales.

The auction chapter is not a group of auctioneers who think they are the best. Quite simply, we are a group of auctioneers who appreciate the significance of having a skilled auctioneer on auction day and those willing to invest time and effort in seeking to be the best auctioneer they can be. Training for competition auctioneering has proven the ideal programme and discipline for teaching auctioneering skills and know-how. As many of our auctioneers will advise, it's not difficult adding numbers poorly and talking at the same time. It's the ability to multi task speaking of the attributes of a home; engage and encourage each bidder without prejudice or favouritism; calculate the addition of a bid onto the current amount offered; resolve any disputes regarding multiple bidders making a bid at the same time and all the time ensuring you smile and make everyone present feel appreciated for being there. Auctioneering is a lot like driving a car - "You don't have to be good to believe that you're very good"

The Auction Chapter meets Wednesday 11:00-12:00noon at Nara Park in Yarralumla. For more information, please contact Michelle Tynan on 0262804544. You don't need to be an REIACT member to attend our sessions.

BUYER'S AGENTS: THE OTHER SIDE OF THE TRANSACTION



Claire Corby
Capital Buyers Agency

As a selling agent, you may have come across a buyer's agent from time to time. There can be many questions raised about their role and how they can help. Despite being in the same industry, it's quite a different approach than listing and selling but at the end of the day we're both after the same thing: the transaction.

WHAT IS A BUYER'S AGENT?

A buyer's agent is engaged by the buyer to represent their interests. A buyer's agent is paid only by the purchaser and may be involved for the entire search process or just one auction, or somewhere in between. A buyer's agent has a fiduciary duty to act in the best interests of their client; the purchaser.

A buyer's agent is not involved in selling property. Nor do they work for a selling agency, as this would create a conflict of interest and prevent them from accessing off-marketing listings with other agencies or presenting properties listed elsewhere that may better suit the client's needs. Buyer's agents are not to be confused with salespeople who assist potential buyers within an agency to learn the ropes and become better sales or listing agents.

As per the Agents Act 2003, an agent cannot act for both the buyer and the seller in a transaction; it's illegal and an agent risks their livelihood and reputation if they do so.

Just as a selling agent is engaged to obtain the best possible outcome for their client, the vendor, a buyer's agent works for the best outcome of the buyer. True buyer's agents have no conflict of interest as they are fully independent and are paid only by their client, the buyer.

IS A BUYER'S AGENT REQUIRED TO BE LICENCED?

Yes. They have an agency agreement with the purchaser and they hold a real estate licence. Be aware that they require a licence for the jurisdiction they are acting in, so if an interstate buyer's agent intends to purchase in the ACT they are required to hold an ACT licence. Verifying their licence can be done online at Access Canberra: <https://www.accesscanberra.act.gov.au/app/services/occupational/#/RA>

A buyer's agent should be licenced in their area and familiar with the purchasing process otherwise they risk penalties, as well as complicating the sale and settlement process for the selling agent.



HOW ARE BUYER'S AGENTS REMUNERATED?

Their sole source of income is from the purchaser. Buyer's agents do not receive any conjunction with the listing agent nor do they receive any referral fees from the selling agent. Likewise, selling agents cannot receive referral fees from a buyer's agent. To do so would be illegal and contravene the Agents Regulation 2003.

True buyer's agents are usually paid a retainer upon commencement and a further fee once their client has purchased. It varies across the industry, but most charge a flat fee to engage their services that may increase in line with the complexity of the work. Tiered fees are sometimes seen, and less common are commissions which seem to vary between 1-2% of the purchase price. The most common fee structure for buyer's agents is a fixed, flat fee regardless of the eventual purchase price.

WHAT DOES A BUYER'S AGENT DO?

The scope of works varies from attending a single auction, to sourcing the right property from the entire market. A buyer's agent spends time with the purchaser to establish their needs, budget and finances so that they are ready to buy. Essentially, they prequalify the buyers to

make life a lot easier for sales agents – if a buyer is working with a buyer's agent, it demonstrates they're serious about buying. A buyers' agent will inspect and provide research to give the buyer guidance on likely sale price and market activity and is the sole point of contact for the buyer.

The level of services differs across buyer's agents, but most offer assistance for auction bidding, negotiations on a private treaty sale, and a full search service.

A critical part of the role is helping the buyer to make a decision, and to make it with confidence. The relationship is based on trust and the knowledge that their buyer's agent is free from any conflict of interest that may influence their recommendations. A good buyer's agent will make buying property an easy and stress-free process for buyers.

WHO DOES A BUYER'S AGENT WORK WITH?

Contrary to popular belief, a buyer's agent isn't just for top end buyers. Across all price points, buyers who are seeking guidance and support, someone to listen to their needs and spend the time to help them identify and purchase their ideal property will benefit from and value a buyer's agent's service. It may be busy professionals who are short on time, those

relocating to Canberra for work, buyers who want to know a lot of detail across a range of properties, families who are busy with Saturday sports, or simply those buyers who don't have the skillset to buy with confidence alone. Across a range of price points and reasons for buying, all benefit in different ways by working with a buyer's agent. The added benefit for selling agents is that having a buyer's agent involved frees up a great deal of time and energy for you.

BENEFITS OF WORKING WITH A BUYER'S AGENT

Having a buyer's agent involved means the selling agent is free to focus on what they do best – working for their client, the vendor. It removes the emotion that buyers bring to the transaction and allows the two agents representing each side to come together to work as professionals. A deal can be reached rationally without the emotional components that cause doubt, stress and anxiety in a transaction.

Working with a buyer's agent eliminates the need to prequalify buyers as the buyer's agent has prepared them in advance. There's no need to coach the buyers or explain how the process works in the hopes that they'll take that information on board and act accordingly. A buyer's agent is there to explain,

Having a buyer's agent is an easy solution for buyers who can't be present on the day but wish to bid. It avoids damaging the reputation of the agency through a conflict of interest, whether perceived or real, when having one of the selling agents on the phone and bidding for a buyer.



conduct and manage the logistics of making offers, act in a timely manner, be contactable, bid confidently and knowledgeably at auction and manage the settlement process for the buyers – all of which frees up the selling agent's time.

A good buyer's agent is well organised and prepared; this isn't their first rodeo. They understand the industry and the time and effort involved to list and sell. A good buyer's agent is full time in the role, knows the market well and keeps their knowledge up to date. A good buyer's agent will present clear, structured offers to help your discussions with the vendor and appreciates detailed feedback that they can work with in return.

For sale by auction, a buyer's agent can work with you throughout the campaign to provide feedback, objective insights and collaborate towards a realistic sale. Auctioneers appreciate a bidder who understands the process and although their aims are opposing, a good buyer's agent knows how the industry works and isn't there to play games. Buyer's agents work with their client to explain the auction process and prepare them for all possible outcomes. Consequently, if unsuccessful, the buyers are content with the auction result and there's no ill feeling afterwards.

Having a buyer's agent is an easy solution for buyers who can't be present on the day but wish to bid. It avoids damaging

the reputation of the agency through a conflict of interest, whether perceived or real, when having one of the selling agents on the phone and bidding for a buyer.

A buyer's agent will work with you to understand how the transaction can best come together for the benefit of all parties. They bring qualified, educated buyers who make confident decisions in a well organised manner. With no conjunction of sales commission, it's a no brainer for selling agents.

TO FIND OUT MORE

If you have a potential buyer who you think would benefit from some professional guidance, you can suggest they engage an experienced, qualified buyer's agent. It will make your life easier and a good buyer's agent will respect the referral.

Website: www.capitalbuyersagency.com.au

Facebook: <https://www.facebook.com/capitalbuyersagency/>

Instagram: <https://www.instagram.com/capitalbuyers/>

Linkedin: <https://www.linkedin.com/in/claire-corby-26031aa0/>

claire@capitalbuyersagency.com.au

0403 155 286





**ONE STEP
FORWARD,
TWO STEPS
BACK:**

How recent changes to the Residential Tenancies Act brings increasing risk for Landlords

BAL Lawyers



Benjamin Grady
BAL Lawyers



Julian Pozza
BAL Lawyers

Protecting the rights of both landlord and tenant is a delicate balancing act. The Residential Tenancies Amendment Bill 2019 (the Bill), introduced into the Legislative Assembly on 26 September 2019, builds on upcoming changes to the residential tenancies legislation and is aimed at increasing the rights of the tenant. But has the ACT Government overcompensated? Is there an equal balance between the rights of the tenant and that of the landlord?

The Bill amends the *Residential Tenancies Act 1997* by:

1. introducing a right for tenants to terminate a residential tenancy agreement (even during a fixed term) if:
 - (a) the tenant accepts accommodation in a residential aged care facility or social housing dwelling; or
 - (b) where the premises is to be sold:
 - (i) the landlord offers the premises for sale within 6 months of the commencement of the residential tenancy agreement, without disclosing the intended sale to the tenant; or

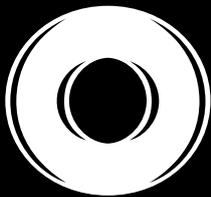
- (ii) the landlord requires access to the premises for the purposes of showing the premises to a prospective buyer and makes a second request for access within 8 weeks of the first;
2. clarifying that the standard residential tenancy terms for a fixed term agreement are those in force on the day the parties first entered into the tenancy agreement. For a periodic tenancy, the relevant residential tenancy terms will be those in force from time to time;
3. giving the Minister the ability to create minimum standards for residential premises, including minimum standards for physical accessibility, energy efficiency, safety, security and amenity;
4. restricting the ability for landlords to require payment of rent in advance to two (2) weeks, unless otherwise nominate by the tenant; and
5. limiting the number of inspections a landlord will be permitted to undertake, when selling the premises, to no more than two (2) per week.

While these changes create additional, and in many cases reasonable, protections for tenants they also create greater uncertainty for landlords. This perhaps leaves existing and prospective investors to consider whether investing in residential property is 'worth it'. It remains to be seen how this policy swing in favour of tenants will affect the rental market in the ACT.

Look out for further BAL publications and seminars coming soon.

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we can offer insights to help you and
your business.



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macquarie.com/real-estate





INVESTING IN PROPERTY? IT'S NOT JUST ABOUT PURCHASE PRICE AND RENTAL RETURNS

John Faulks and Domenic Stramandinoli
Nexis Accountants and Business Advisors

For most Australians, the largest purchases that they make are property related. Whether a first home or investment property, the thrill of the purchase is always there. Whilst the emotional connections to your home continue to develop every day, the purchase of an investment property can become a distant memory and throw up uncertainty once it simply becomes an investment.

That's where the quality of the advice you receive is imperative.

What are the big ticket property investment items that need to be considered and understood:

- **Rental Yield:** Whilst the 3 bedroom apartment with the northerly aspect on the top floor may have your heart, the head needs to consider that the percentage return on that apartment may be well under that of the other apartments in the building.
- **Capital growth:** Whilst the capital growth in Australian properties over the past 25 years equates to an annual growth rate of 6.8% for houses and 5.9% for units, this is never linear. You need to consider where in the growth cycle your property is and remember that property is generally a medium to long term investment.
- **Cashflow:** The incoming rent on an investment property along with the outgoings need careful review and stress testing; including potential changes to interest rates, rental values and vacancy periods. Nexis has sophisticated forecasting and modelling software that can quantify what these changes will mean for your future tax returns.
- **Structure:** How you hold a property is vitally important. Not only can different structures such as trusts and self-managed super funds give you different tax outcomes, but they can also help protect the property from risks and ensure that the property stays within the family for years to come.
- **Tax advantages:** Negative gearing means that you can get a tax reduction for the losses on your property. These are largely driven by interest, depreciation and capital works costs. Often these costs put a strain on the client's cashflow, so Nexis can lodge variations to the ATO to get your refund in each pay packet, rather than waiting until the end of year.
- **Completing the circle of trusted advisors:** We can introduce you to trusted professionals that we use ourselves for finance, property management, conveyancing and financial advice.

If you are keen to discuss how Nexis can help you, get in touch with our friendly team today at [nexis.com.au](https://www.nexis.com.au)

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SPECIAL OFFER!

For a limited time, all **REIACT** members who sign up with MyConnect will receive two months of **double rewards**

What is MyConnect?

MyConnect are an independently owned utility connection service. We connect electricity and gas, phone, internet and pay TV. We also assist with insurance and truck/van hire. In one simple phone call, we take care of everything.

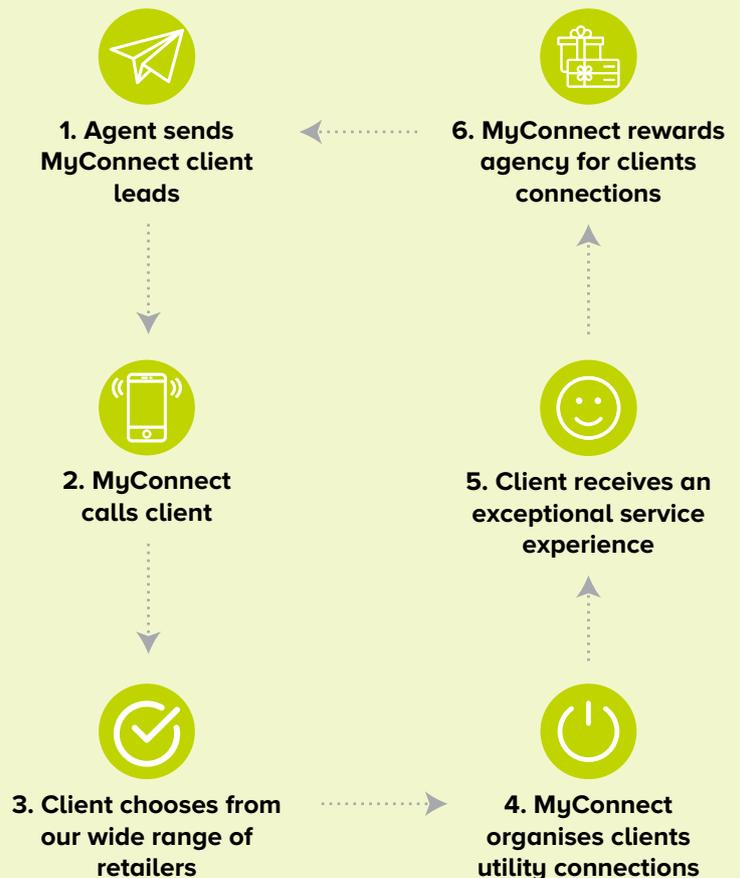
Our service is the very best in the industry. MyConnect rewards you generously for every one of your clients' successful utility connections.



MyConnect's preferred supplier in the ACT is Actew AGL



How does it work?



The Allhomes promise

*Selling a property in the ACT or Queanbeyan?

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We'll refund the online advertising cost if the property doesn't sell after 90 days.



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#1 in the ACT¹

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*Terms and Conditions Apply

Applies to residential property sales campaigns launched on Allhomes between 1 March and 31 December 2019 and maintained for at least 90 consecutive days. Campaign must be launched on the Allhomes site. Reimbursement only available if listing on Allhomes appears no later than listings on other online channels. Single residential properties in ACT and Queanbeyan only. Reimbursement is for full digital listings spend and select print marketing spend. Detailed terms and conditions on www.allhomes.com.au/AllhomesPromise_conditions.pdf.

Source: ¹ Unique audience in ACT for Allhomes compared to nearest competitor, sourced via emma™ conducted by Ipsos, people 14+ for 12 months ending November 2018. Nielsen Digital Content Ratings (Monthly Total), people 14+ November 2018.

AND THE WINNERS ARE...

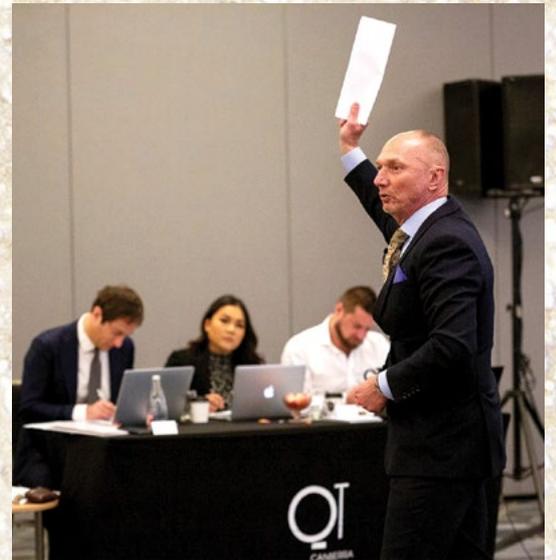
CATEGORY	WINNER
MARKETING AND COMMUNICATIONS AWARD	INDEPENDENT
ROOKIE OF THE YEAR	JOSHUA MELI - RAINE & HORNE COMMERCIAL CANBERRA
SOLICITOR OF THE YEAR	MATTHEW CARMODY - McINNES WILSON LAWYERS
INNOVATION AWARD	INDEPENDENT
PROJECT PROPERTY MARKETER OF THE YEAR	GUY RANDELL - BURGESS RAWSON CANBERRA
CONVEYANCER OF THE YEAR	KAREN WATT - KJB LAW
SMALL RESIDENTIAL AGENCY OF THE YEAR	EN VOGUE PROPERTY MANAGEMENT
PUBLIC HOUSING PROPERTY MANAGER OF THE YEAR	KIM GRIFFITHS - HOUSING ACT
COMMUNITY HOUSING SECTOR PROPERTY MANAGER OF THE YEAR	KYM MARKOWSKI - CHC AFFORDABLE HOUSING
BUSINESS DEVELOPMENT MANAGER OF THE YEAR	LYN FAIRWEATHER - L J HOOKER GUNGAHLIN
ACHIEVEMENT AWARD	RAVI SONI - LAING+SIMMONS COMMERCIAL PROPERTY (ACT)
COMMUNITY SERVICE AWARD	INDEPENDENT
OPERATIONAL LEADERSHIP PERSON OF THE YEAR	HANNAH GILL - INDEPENDENT PROPERTY MANAGEMENT
AUCTIONEER FRANCHISE OF THE YEAR	L J HOOKER
RESIDENTIAL PROPERTY MANAGEMENT TEAM OF THE YEAR	McINTYRE PROPERTY
LARGE RESIDENTIAL AGENCY OF THE YEAR	INDEPENDENT
AUCTIONEER OF THE YEAR	ALEC BROWN - RAY WHITE CANBERRA
COMMERCIAL AGENCY OF THE YEAR	COLLIERS INTERNATIONAL (ACT)
COMMERCIAL PROPERTY MANAGER OF THE YEAR	ALISON MAJDANDZIC - RAINE & HORNE COMMERCIAL CANBERRA
COMMERCIAL SALESPERSON OF THE YEAR	GUY RANDELL - BURGESS RAWSON CANBERRA
PRESIDENT'S AWARD	PETER WALKER - RAY WHITE CANBERRA
HALL OF FAME	ACT PROPERTY INSPECTIONS SERVICE PROVIDER OF THE YEAR
MEDIUM RESIDENTIAL AGENCY OF THE YEAR	McGRATH DICKSON
PROPERTY MARKETER OF THE YEAR	STEVE LOWE - AGENCY TEAM BELCONNEN
RESIDENTIAL SALES TEAM OF THE YEAR	OUR TEAM - INDEPENDENT INNER NORTH & CITY
NOVICE AUCTIONEER OF THE YEAR	JACK FLYNN - L J HOOKER WODEN
RESIDENTIAL PROPERTY MANAGER OF THE YEAR	KIMBERLY NUGENT - INDEPENDENT PROPERTY MANAGEMENT
OPERATIONAL SUPPORT PERSON OF THE YEAR	NATALIE MILLS - McGRATH DICKSON
ALLHOMES PEOPLE'S CHOICE AUCTIONEER OF THE YEAR	ALEC BROWN - RAY WHITE CANBERRA
RESIDENTIAL SALESPERSON OF THE YEAR	PETA BARRETT - L J HOOKER KIPPAX

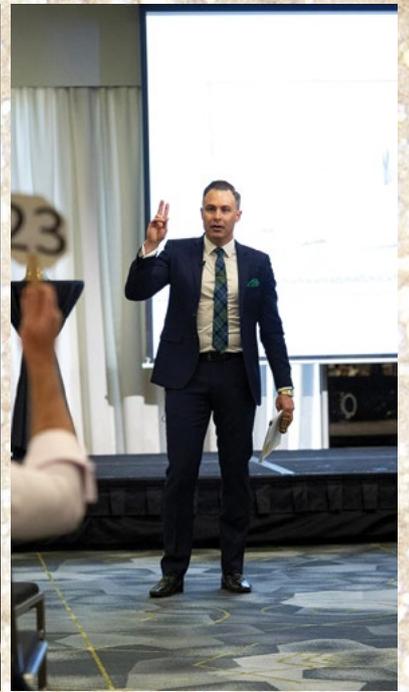






2019 REIACT AUCTIONEERING CHAMPIONSHIPS







SPOTLIGHT ON INDUSTRIAL LAND IN THE CANBERRA REGION



Guy Randell
Chair, REIACT
Commercial Committee

Land, land, land. A major shortage of current and future industrial land opportunities is driving away small, medium and large local and international companies looking to invest in the region. With agents noting the lack of available land being a major problem, with numerous requirements especially from 500sqm to 4,000sqm and to a lesser degree up to 10,000sqm with even larger requirements simply not able to expand in the market.

Highlighting the dearth of properties on the market, on Australia's two most prominent commercial property websites, at the time of publication there was no industrial land for sale in either Mitchell or Fyshwick, while Beard has just one site on the market. For tenants there is also precious little choice, with only three industrial properties above 750sqm currently available for lease in Hume, while Mitchell has five and Fyshwick six.

The ACT Government's reluctance to look at long term sustainable growth

in the Industrial land supply area is seeing opportunities cross the border. New industrial and Business Estates that are to be built in the new South Jerrabomberra estate have seen an unprecedented pre market enquiry and demand. When you couple this with the unsustainable Commercial Rates costs and increases in the ACT we are seeing long term investors, tenants and developers crossing the border to ensure this asset class can be sustained, built to tenants needs and delivering much needed industrial assets to provide essential services, goods and online warehousing needs for the growing e-commerce and building industries servicing the ACT.

There is a much needed planning strategy to deliver long term industrial requirements in this essential asset class. The Territory plan states IZ2 is a low cost rent service areas. However new estates such as Beard that were built have included pricing matching higher class retail environments.

Optimism is returning to the market now, and particularly with industrial investment properties. There's good demand for investments but very little coming on the market.



However small and unconnected estates like this will not deliver the future needs of the region. Direct Access to Monaro and Federal Highways, Majura Parkway and Kings Highway to provide direct access to all regions without crossing through city and residential suburbs is essential. Whilst there is new residential suburbs creating a ring around the city we need to look at land uses that will ultimately service the rapidly growing region. Mitchell, Fyshwick and Hume our three major centers which are practically full with little to no land available for purchase.

We're having new estates built over the border in Queanbeyan and areas such as that, and the demand for them prior to even going to market, is huge. We expect those estates will be sold within the first month."

On a national investment front it might not have a reputation as the sexiest commercial property class, but there are good reasons why investors continue to turn to industrial assets. The rise of

e-commerce and a lack of stock and developable land in some states has put major momentum behind existing industrial properties, which have continued to sell exceptionally well over the past 12 months. Nationally, Australia's industrial property landscape remains a two-paced beast, with some cities experiencing enormous demand but a scarcity of stock, while in others it remains a buyer's and tenant's market. In Canberra, however, conditions are squarely in owners' and landlords' favour due to this critical shortage of stock and available land. Highlighting the Canberra market's strength, a major near-new logistics facility at Hume leased to building glass supplier Viridian sold on a yield of just 5.24%. Normally unprecedented in the Canberra region. But although the backdrop may be very different state by state, even the slowest markets are now in a growth phase. In Perth, where industrial activity has been somewhat subdued, there are now green shoots of growth, were it had definitely reached the bottom and there are

real signs of improvement. Demand is picking up slightly and supply is starting to drop down. Optimism is returning to the market now, and particularly with industrial investment properties. There's good demand for investments but very little coming on the market.

While there are typically more opportunities in the eastern seaboard markets of Sydney, Melbourne and Brisbane, demand is keeping things tight, with yields on investments regularly in the 5% range, while even properties considered more specialised, such as workshops and refrigerated facilities, that may previously have struggled to capture attention are now achieving strong results. Landmark results continue to be driven in large part by e-commerce and retail, with supply chain facilities in increasing demand among owner-occupiers and investors.

A MESSAGE FROM THE COMMISSIONER FOR FAIR TRADING

Craig Simmons Commissioner for Fair Trading



Access
Canberra.



Craig Simmons
Commissioner
for Fair Trading

Action taken against real estate agents who failed to meet trust account audit obligations.

Access Canberra is committed to delivering consumer confidence in the real estate industry. Each year, licensed real estate agents must report on the handling of trust account money, and are required under the *Agents Act 2003* to:

- have the trust account/s in which the money is banked audited by a qualified auditor before 30 September each year; and
- provide a copy of the audit report to the Commissioner for Fair Trading as soon as practicable after completion.

Access Canberra focuses on a risk-based approach to compliance and enforcement, directing resources where the risks of harm, unsafe practices or misconduct are greatest in the community.

While majority of the industry comply with their obligations in relation to trust account audits, recent occupational discipline action has been finalised against four real estate agents who were

in breach of the *Agents Act 2003* and *Agents Regulation 2003*.

Despite multiple reminders, these agents failed to meet their obligations.

The ACT Civil and Administrative Tribunal made the following orders by consent:

- Yes Real Estate ACT Pty Ltd will pay a \$4,500 penalty for failing to lodge six trust account audit reports within the required timeframe.
- Donald McPherson trading as One Agency Don McPherson will pay a \$2,500 penalty for failing to lodge one trust account audit report within the required timeframe and for failing to maintain adequate trust account records.
- Keep Renting Pty Ltd and will pay a \$2,250 penalty for failing to lodge three trust account audit reports within the required timeframe.
- Ms Denise Flint trading as Denise Flint Real Estate will pay a \$2,000 penalty for failing to lodge two trust account audit reports within the required timeframe.



All four agents were also ordered to undertake additional training and to update their policies and procedures for trust account auditing.

To ensure continued consumer confidence within the real estate industry, any licensed agent who fails to comply with their trust account obligations will be held to account.

These actions serve a reminder to real estate agents of the consequences of failing to manage trust accounts in accordance with the law.

Access Canberra is committed to delivering excellent, integrated services that make it easier for you to do business. Earlier this year, the introduction of a smart form now makes it easier and more streamlined for licensed real estate agents to lodge trust account audits. You can also complete the smart form if you didn't hold trust money during the 2018/19 financial year.

In March 2019, Access Canberra advised industry that trust account audit obligations were an area of focus.

Receiving benefits from service providers for referrals? Make sure you disclose them!

If you receive a benefit for referring a client who is buying or selling land to a service provider, section 84 the *Agents Act 2003* requires that you disclose that benefit to your client. Disclosure must happen in the pre-contract information provided to your client before they enter into a contract with you. Benefits include rebates, discounts, commissions and other incentives. You must disclose:

- the nature of the relationship, whether personal or commercial, you have with the service provider, and
- the nature and value of any benefit you receive, or expect to receive by referring the client to the service provider.

There are significant penalties for failing to comply with your disclosure obligations.

For more information on trust account audits, including access to the smart form, and to disclose any service provider benefits, visit www.act.gov.au/agent



Access Canberra is committed to delivering excellent, integrated services that make it easier for you to do business.



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- Diligent, Responsive & Deeply Experienced
- Thousands of Successful Property Transactions
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Emma
West



Julie
Belmonte



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White

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ACT REVENUE

Land Tax in the ACT has changed from 1 July 2018. Previously land tax was charged on properties which were rented. From 1 July 2018 land tax is now charged on all properties which are not the owners principal place of residence. The ACT Revenue Office has transitioned to new online notification forms. These forms collect all the necessary information that is required to assess land tax in accordance with the changes in legislation. These forms can be found at:

www.revenue.act.gov.au/land-tax.

The ACT Revenue Office has received a number of 'old' Land Tax Notification Forms which do not collect the relevant data. What this means is not all the appropriate information is collected and revenue staff are contacting property managers' seeking further information. As we can all appreciate, this can be frustrating for all parties. If you have any of these "old" forms, please disregard these.

**For more information
please contact the ACT
Revenue Office on
6207 0028**



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WHY WORKPLACE BULLYING IS A SERIOUS BUSINESS RISK

Recent research shows that claims relating to bullying or harassment cost Australian organisations up to \$36 billion¹ a year through lost productivity, increased absenteeism, poor morale and time spent documenting or defending a claim.

According to Safe Work Australia, the median cost for accepted bullying and/or harassment claims is approximately \$27,153² but some claims can run into hundreds of thousands of dollars.

WHAT CONSTITUTES WORKPLACE BULLYING?

Workplace bullying is reflective of a persistent pattern of mistreatment from others causing either physical or emotional harm, typically through humiliation, verbal and physical means³.

Examples of bullying include:

- behaving aggressively
- teasing or practical jokes
- pressuring someone to behave inappropriately
- excluding someone from work-related events or
- unreasonable work demands.

WHO IS LIABLE FOR A WORKPLACE BULLYING CLAIM?

Managers and/or business directors can be found legally liable if an employee makes a claim for bullying or harassment in the workplace. Even if the claim is vexatious, unwarranted and untrue, the claim will have to be fought and the costs can be substantial.

In addition, if you are found accountable for such claims, you could face prosecution by the Fair Work Commission.

HOW MANAGEMENT LIABILITY INSURANCE CAN HELP

Management Liability Insurance is one solution designed to help protect the personal assets of company directors, managers and officers against potentially large and unexpected liability claims regarding the management, governance or compliance of the business.

Workplace bullying is typically covered by such a policy and will usually cover damages and claimant costs awarded against you, legal and investigation costs, civil fines and penalties and representation costs where you are legally required to attend an inquiry or investigation.

To understand the exposures faced by directors, officers, managers and business entities, a reputable insurance broker such as Coverforce (the preferred insurance broker for REIACT) can assist. Contact Coverforce today on **02 9376 7979** or visit **coverforce.com.au** for more information.

REFERENCES

1. <https://www.headsup.org.au/supporting-others/workplace-bullying>
2. Safe Work Australia - Psychological Health and Safety and Bullying in Australian Workplaces: Indicators from accepted workers compensation claims, Annual Statement, 4th Edition, 2017.
3. <https://www.fairwork.gov.au/employee-entitlements/bullying-and-harassment#protections>

The information provided in this article is of a general nature only and has been prepared without taking into account your individual objectives, financial situation or needs. If you require advice that is tailored to your specific business or individual circumstances, please contact Coverforce directly.

ARE YOU IN A SUPER FUND YOU CAN TRUST?



The right financial advice at the right time can make a big difference to your superannuation savings. REI Super's professional financial advisers help members to make the best choices on investment options, insurance, additional contributions and transition to retirement.

The Royal Commission into the banking and financial services industry shone a light on shocking profit taking practices in the retail, or bank-owned, sector of the superannuation industry. An epidemic of high fees, low returns, and conflicts of interest was uncovered.

The industry superannuation model, by contrast, has members' best interests at its heart. Since its inception, investment profits have been returned to members, not shareholders. As a result, Industry Super Funds have historically charged lower fees on average when compared to retail super funds.

For many Australians, who previously were not engaged with their super, the Royal Commission has served as

something of a wake-up call. In the aftermath of publicity around the Royal Commission, rollovers from retail to industry funds have increased on the same time last year.

As one of the oldest industry super funds in Australia, REI Super has a more than 40-year history of delivering results for its members. The fund actively and astutely manages members' investments, while keeping a watchful eye on costs to further boost returns to members' accounts.

REI Super offers competitive Income Protection insurance as an additional option, to protect members' income if they are temporarily unable to work due to accident or illness. This cover is tailored to the needs of people who work in real estate, and it covers commissions and variable remuneration.



SUPERANNUATION

The right financial advice at the right time can make a big difference to your superannuation savings. REI Super's professional financial advisers help members to make the best choices on investment options, insurance, additional contributions and transition to retirement. Advice on contributions, investments and insurance within members' REI Super accounts is provided at no additional cost. There are low fixed fees to set up or review transition to retirement strategies or to obtain comprehensive advice. All advice is quoted up front on a fixed fee for service basis with no commissions or hidden costs.

REI Super exists solely to provide members with benefits and services, all tailored to the real estate profession. We make it easy to grow your super.

The information contained in this article does not constitute financial product

advice. However, to the extent that the information may be considered to be general financial product advice, REI Super advises that REI Super has not considered any individual person's objectives, financial situation or particular needs. Individuals need to consider whether the advice is appropriate in light of their goals, objectives and current situation.

Members should obtain and read the Product Disclosure Statement for REI Super before making any decisions.

<https://www.abc.net.au/7.30/superannuation-customers-shifting-from-retail/10494358>

<https://www.australiansuper.com/superannuation/superannuation-articles/2018/10/retail-or-industry-super-funds>

<https://www.canstar.com.au/superannuation/industry-vs-retail/>

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KEEPING YOURSELF AND OTHERS SAFE IN A MR FLUFFY PROPERTY



Asbestos Response Taskforce

Regulations exist in the ACT to ensure greater awareness for industry and the community in relation to managing asbestos within residential properties.

With many of the properties identified as being affected by loose fill asbestos insulation now demolished and new homes rebuilt, it is important that the community and prospective tenants remain aware of the potential risks of exposure from any remaining Mr Fluffy properties.

This is particularly important for property managers responsible for tenanting a Mr Fluffy property.

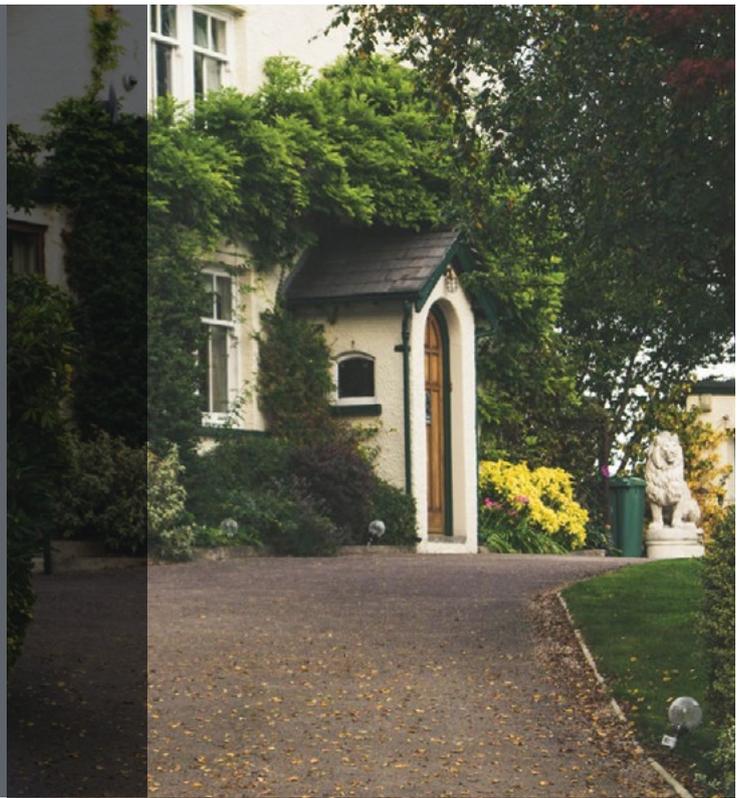
Owners and occupiers choosing to remain in an affected property are required to comply with specific duties and obligations under the *Dangerous Substances Act 2004* to minimise the future risk of exposure to themselves, other occupants or visitors to the property.

Before agreeing to manage or enter a residential property, property managers should know whether the property is affected by loose fill asbestos insulation and remains on the *Affected Residential Premises Register* (Register).

For properties which remain on the Register, property managers should:

1. Ensure the owners have an **Asbestos Management Plan** (AMP) in place that will provide details of contamination within the property;
2. Disclose to prospective tenants that the property is affected by loose fill asbestos insulation and provide them with a copy of the **AMP** so a fully informed decision can be made about their responsibilities in managing the property;
3. Provide contractors with a copy of the **AMP** prior to engaging them to work on or in an affected property.

It is important that the community and prospective tenants remain aware of the potential risks of exposure from any remaining Mr Fluffy properties.



If there is no **AMP** in place, property managers should consider:

- whether the property is fit for tenancy; and
- whether any activity should be undertaken in the property without clear knowledge of the extent and location of the contamination.

Property managers should encourage contractors engaged to work on or in a residential property to:

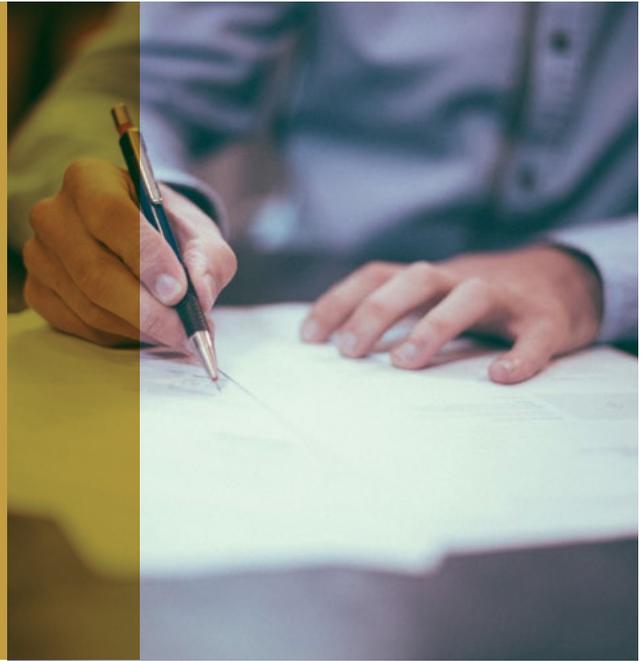
1. Check the **Register** - to identify if they will be working on or in an affected property
2. Ask for a copy of the **AMP** - that will provide details of contamination within the property so a fully informed decision can be made. If there is no **AMP** in place, contractors should consider whether they should undertake any activity in the property without clear knowledge of the extent and location of the contamination.

3. Look for a warning sticker in the meter box or switchboard.
4. Read the **Guidance Note** – for information on working safely in a Mr Fluffy house.
5. Contact **WorkSafe ACT** on 6207 3000 and register their details on the **National Asbestos Exposure Register** if they think they may have been exposed to asbestos during work, at home or in the community.
6. For more information on managing your connection with loose fill asbestos visit the **Asbestos Response Taskforce website**.





ACT
Government



ACT RENTAL BONDS

Changes to the Rental Bond Portal

CHANGES TO THE S33 PROCESS

(Previously issued all refunds with s33 notices)

- Where an agent or lessor request a refund and the full refund is being paid to the tenant. This will NO longer issue a s33 notice.
- Where an agent or lessor request a refund and you are claiming part or all the refund. This will ONLY issue a s33 notice to the tenants.
- Where a tenant requests a part or full refund, claiming the bond – a s33 notice will be issued to the agent email – PLEASE CHECK THESE NOTICES – they will now all be s33 notices requesting approval or dispute.
- Internal changes have been made to the rental bonds functions so client service officers can identify and process s33 expiries quicker.

CHANGES TO THE LODGEMENT PROCESS FOR AGENTS

(Due to agencies and concerns where property managers ceased employment with the agent and where still recorded against the bond)

- Previously on raising a bond, the property manager details where being requested.
- This has been removed.
- Only the agency details are recorded – the emails for all correspondence from the RBP (Portal) will be sent to the agency registered email address.

CHANGES TO REFERRING A DISPUTE TO THE ACAT

(Lengthy processing times)

This has been a manual rental bonds process – the system will now automatically refer the dispute to the ACAT within 24 hours of the dispute being raised. (Previously a 20-business day process)

CONTACT

For further information on rental bonds visit our website www.revenue.act.gov.au/rental-bonds or contact Rental Bonds by phone on **(02) 6207 0028**.

SMALL BUSINESS OWNERS BEING EXPLOITED UNDER THE CURRENT SMALL BUSINESS FAIR DISMISSAL CODE



KATE CARNELL

Australian Small Business and Family Enterprise Ombudsman

Kelly has had a small independent real estate agency in a coastal Southern NSW town for five years. She set it up herself from scratch and her small team has grown over time. About 18 months ago, Kelly took on a junior office assistant, Chloe. Over the past few months Chloe has been late for work regularly or not shown up at all without explanation and failed to complete basic tasks such as taking phone messages. Despite several discussions and even a written warning, Kelly has not seen any change in Chloe's behaviour. Kelly decides that she needs to let Chloe go, for the good of her business.

Surely any-right-minded person would think Kelly was justified in terminating Chloe's employment and this was a 'fair' dismissal. Right? Well not necessarily.

You see, under the current Small Business Fair Dismissal Code, an employee needs to be told they are at risk of being dismissed and give the employee an opportunity to respond to the warning. The employer also needs to give the staff member a "reasonable chance" to rectify the problem.

So all of a sudden, Kelly needs a lawyer. Chloe has lodged an unfair dismissal claim with the Fair Work Commission and Kelly is on the back-foot.

Kelly just wants to get on with running her small business, so she ends up agreeing to pay Chloe a couple of thousand dollars, to be done with the situation.

Yes, this is a fictional example for the purpose of this column, but this is the kind of scenario Australian small businesses, including those in the real estate industry, are finding themselves in every day.

It's hitting them in the hip pocket. It's hampering their work. It's unnecessary.

Worst of all, it's making small business owners like Kelly, reluctant to take on any more staff.

That why my office is recommending a number of important changes to the Small Business Fair Dismissal Code and checklists for employees.

The Code was added to the Fair Work Act by the Labor Government in 2009, in recognition that small business owners do not have the time or



expertise to navigate the complex unfair dismissal system.

It was supposed to be a simple guide that small business employers could follow to ensure they fairly dismissed a worker.

Unfortunately, ambiguous terms like “valid reason” and “reasonable chance” led to lawyers driving a truck through the Code. That meant small businesses were no longer able to rely on the Code as a way of making sure a dismissal was going to be deemed fair.

We know that small businesses can't afford costly and stressful legal action. They don't have the support of a HR department when faced with the difficult decision to end a worker's employment.

Figures released by the Fair Work Commission shows what the current state-of-play is doing to small businesses. During the first three months of this year it received 3,583 unfair dismissal applications. Most were settled during mediation, often with small businesses making a one-off payment (known as 'go away money') to finalise the issue. 172 of those cases

made it to the Commission and 65% of those were dismissed without merit or deemed legally invalid, meaning they shouldn't have gone to the Commission in the first place.

We know that small business growth in Australia is in decline. Institute of Public Affairs' (IPA) latest research shows that less than one per cent of small businesses with 1-4 employees in 2017, employed more than four workers in 2018. That's well below the historical transition rate of 6%.

Under a clearer Code, small business owners would feel confident they could do the right thing to avoid an unfair dismissal claim and would be much more likely to hire staff.

The government has already announced a review into Australia's industrial relations system. The Small Business Fair Dismissal Code should be first on that agenda.

KATE CARNELL

Australian Small Business and Family Enterprise Ombudsman

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RESIDENTIAL TENANCIES AMENDMENT ACT 2019

OVERVIEW

Background

Rental laws in the ACT are changing from 1 November 2019. The changes will ensure that the the *Residential Tenancies Act 1997* (the RTA) operates effectively and strikes a fair balance between the rights of tenants and landlords. The RTA is the key piece of legislation setting out the rights and obligations of landlords and tenants in the ACT.

This fact sheet is designed to help you understand the changes. The information in this fact sheet is not legal advice. You should seek legal advice if in doubt about your individual circumstances.

The rights and obligations of the landlord and tenant depend on the RTA and on the individual residential tenancy agreement (including whether it is for a fixed term or periodic). You should always check your agreement.

What are the major changes to the RTA?

The changes will:

- make it easier for tenants to keep pets and make modifications in rental properties, within a consent framework that will balance the legitimate interests of landlords;
- make it easier for tenants experiencing family violence to change their tenancy arrangements;

- provide that a tenant who vacates a property during a fixed term does not need to pay a 'break lease' fee if the lessor finds a replacement tenant, subject to reasonable costs; and
- provide additional protection to tenants against excessive rent increases.

There are more detailed fact sheets on each of these separate topics available on our website.

Will existing residential tenancy agreements be affected?

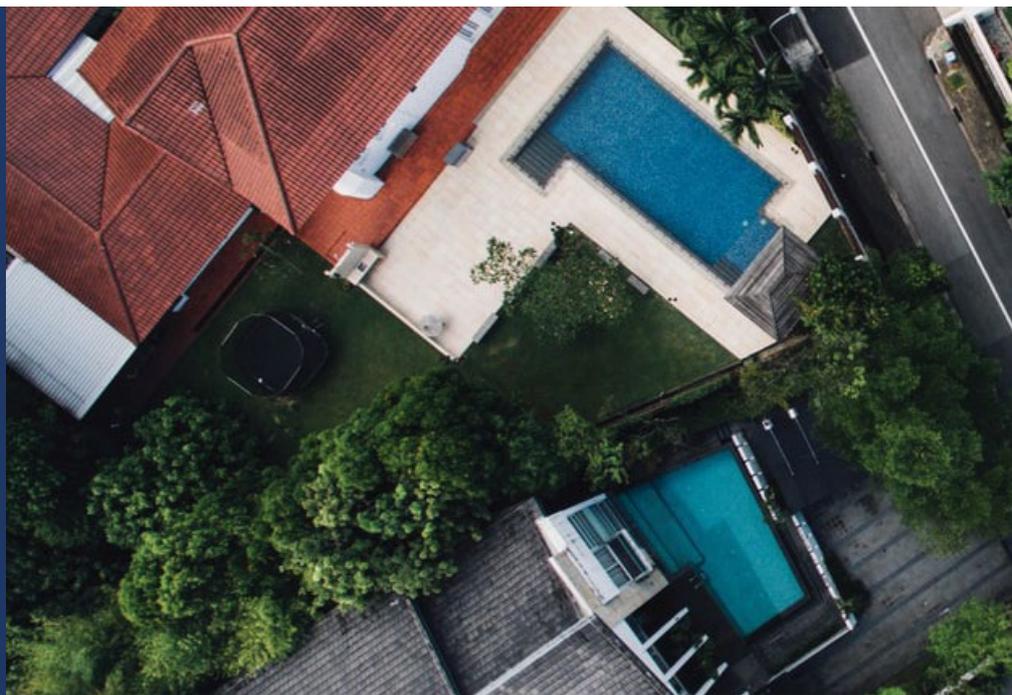
The terms of existing agreements will not change, but the way those terms operate might be affected by changes to the RTA. Residential tenancy agreements made after the new laws have commenced will include the new standard terms. If in doubt, seek legal advice about your individual circumstances.

PETS

Is a tenant permitted to keep a pet on the property without the landlord's knowledge?

Only if the tenancy agreement permits it. If the tenancy agreement does not have a provision about pets, the tenant may have a pet without seeking the permission of the landlord.

A tenancy agreement can impose a



requirement that the tenant must seek the landlord's consent before keeping a pet. If that requirement is in the agreement, the tenant must comply with it and seek consent before keeping a pet on the property.

Can a tenancy agreement prohibit pets completely?

No. The tenancy agreement may only state that the tenant must seek the landlord's consent before keeping a pet.

Can a landlord refuse consent for a pet?

Yes – however a landlord may only refuse consent for a pet with the approval of the ACT Civil and Administrative Tribunal. The landlord must apply to the Tribunal within 14 days of receiving the tenant's request, or the landlord will be taken to have consented. The Tribunal may approve the landlord's refusal if satisfied that:

- the property is unsuitable to keep the animal;
- keeping the animal would result in unreasonable damage to the property;
- keeping the animal on the property would be an unacceptable risk to public health safety;

- the landlord would suffer significant hardship; or
- keeping the animal would be contrary to law.

The Tribunal is independent and will make fair decisions about pets as quickly as possible. The Tribunal also offers mediation services as a way to informally resolve disputes without requiring a full hearing.

How can the landlord ensure that the tenant seeks their consent?

When the landlord places an advertisement to lease a property, they must declare that the tenant will be required to seek their consent to keep a pet. A landlord can be fined if they fail to state this in their advertisement.

When signing the tenancy agreement, the agreement can include the clause that requires the tenant to obtain the lessor's prior written consent to keep an animal. If the clause is not in the agreement, the tenant may keep a pet.

What if owning a pet is against the rules of the body corporate?

A tenant is required to comply with their requirements under both the RTA and under strata law (*the Unit Titles (Management) Act 2011*).

Under strata law, the owners corporation's consent is required to keep a pet. Owners corporations must not unreasonably withhold their consent.

What if the animal causes damage to the property?

The tenant is responsible for all repairs or additional maintenance to the property required due to keeping an animal on the property. If this damage exceeds the bond paid, the tenant is responsible for the excess.

Can landlords request an increase in the bond or a 'pet bond' in advance from the tenant?

No. The RTA makes it clear that tenants are responsible for additional damage caused by pets. The maximum bond amount remains at not more than the first four weeks of rent payable.

Can landlords impose a condition to inspect the property more regularly?

No. The existing rules for a landlord to inspect a property still apply.

What about tenants with assistance animals?

The new laws do not affect the protections given to people who rely on assistance animals. *The Discrimination*



Act 1991 makes it unlawful for landlords to discriminate against a tenant who has a disability, which includes their reliance on an assistance animal.

MODIFICATIONS

Is a tenant able to make modifications to the property without the landlord's knowledge?

No. A tenant must not make any modifications to the property without the consent of the landlord.

The landlord may give consent subject to reasonable conditions. These conditions may include requiring the tenant to use a suitably qualified tradesperson to undertake the modification.

If a tenant paints a wall, do they have to paint it back to the original colour when they leave? If they put a nail in the wall, do they have to patch the wall up when they leave?

Yes. Unless otherwise agreed, the tenant is responsible for restoring the property to substantially the same condition as the property in at the start of their tenancy (fair wear and tear excepted).

Can landlords refuse consent to modifications?

Yes, but there are certain types of 'special modifications' where the landlord cannot refuse consent unless they seek orders from the Tribunal. Special modifications are modifications made for the following reasons:

- for the safety of people on the property (e.g. furniture anchors or child safety gates);
- to assist a tenant who has a disability (e.g. access ramps, safety rails) – the tenant must provide a written recommendation of a health practitioner in support of their request;
- to improve the energy efficiency of the property;
- to allow access to telecommunication services;
- for the security of the property or people on the property (e.g. deadlocks or alarms); or
- minor modifications. Minor modifications are changes that can be removed or undone so that the property is restored to substantially the same condition it was in at the start of the tenancy (fair wear and tear excepted).

If the tenant requests consent for a special modification in writing from the landlord (e.g. via email), and the landlord does not respond within 14 days, the landlord is taken to have consented.

The Tribunal may make an order permitting the landlord to refuse consent to a special modification (or impose conditions on consent) if:

- the lessor would suffer significant hardship if the modification were made;
- the special modification would be contrary to law;
- the special modification is likely to require modifications to other residential properties or common areas (e.g. in apartment buildings); or
- the special modification would result in additional maintenance costs for the landlord.

For modifications other than special modifications, the landlord does not need a Tribunal order to refuse consent, but must not withhold consent unreasonably. If the tenant thinks that the landlord has unreasonably withheld consent, then the tenant may apply to the ACT Civil and Administrative Tribunal to obtain consent for the modification. The Tribunal will consider the matter fairly taking into account the views of both parties.

What if the modification improves the property? Is the tenant still required to restore the property to its original condition at the end of the lease? Who pays for the improvement?

Many modifications requested by a tenant may improve the property (e.g. upgrading locks or installing energy efficiency devices). The tenant and the landlord can agree to leave the modification in place at the end of the tenancy. The tenant cannot require the landlord to pay for all or part of the modification even if it improves the property and is left in place. The tenant and landlord may agree to share the costs of the modification.

EXCESSIVE RENT INCREASES

What is an excessive rent increase?

An excessive rent increase is an increase in excess of the threshold set under the legislation. The threshold is 110% of the percentage increase in the rents component of the housing group of the Consumer Price Index for Canberra published by the Australian statistician. The Consumer Price Index is the most commonly used statistic in the calculation of inflation. The Australian Bureau of Statistics publishes the Consumer Price Index figures on its website at: <https://www.abs.gov.au/Price-Indexes-and-Inflation>.

Can a landlord increase the rent higher than the threshold?

Yes, but only in certain circumstances. A landlord may increase the rent by an amount more than the prescribed amount if:

- the residential tenancy agreement permits the landlord to increase the rent by the amount; or
- the landlord and the tenant agree to the increase; or

- the landlord obtains the approval of the ACT Civil and Administrative Tribunal.

BREAK LEASE FEE

What is a break lease fee?

A residential tenancy agreement may provide that a break lease fee is payable by a tenant who vacates a property during a fixed term.

The break fee varies depending upon the term of the tenancy agreement and how much time is left on the agreement. If your residential tenancy agreement is for a period of more than three years, different rules apply: consult the RTA and seek legal advice as necessary.

What are the changes to the rules governing break lease fees?

Instead of break lease fees being calculated based on the rent (as is currently the case), the maximum break lease fee payable will be limited to the actual loss incurred by the landlord. The fee will be limited to:

- the lost rent before a new tenant is found (this will depend on the amount of time between when the tenant breaks the lease and a new tenant moves in); and
- the landlord's reasonable costs for advertising and re-letting the property.

The landlord's reasonable costs for advertising and re-letting will be capped. The cap varies depending upon what proportion of the term of the agreement has been completed: if you are less than half way through, the cap is one weeks' rent; if you are more than half way through, the cap is two-thirds of one weeks' rent.

It is important to note that this is just the cap. If the actual cost to the landlord is less than the cap, the full capped amount cannot be charged.

More information?

There are more detailed fact sheets on each of these separate topics available on our website.

You can access the RTA on the ACT Legislation Register at www.legislation.act.gov.au.

You can access information about the ACT Civil and Administrative Tribunal and contact details for the Tribunal at www.acat.act.gov.au. Please note that the Tribunal can assist with questions about its procedures but it cannot give legal advice on individual situations.

Tenants can access the Tenants' Advice Service on (02) 6247 2011 between 10:00am and 1:30pm to leave a voice message on their advice line. The Tenant's Union ACT website also includes a range of information and factsheets about rental issues: <http://www.tenantsact.org.au/services/tenants-advice-service/>.

The Legal Advice Bureau at the Law Society is a free service and can provide advice to both tenants and landlords. It can be contacted on (02) 6274 0300.

The break fee varies depending upon the term of the tenancy agreement and how much time is left on the agreement.

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Carolyn Parrella

Terri Scheer Insurance executive manager

Terri Scheer Insurance has market-leading inclusions in its landlord insurance policies to encourage landlords to accept tenants with pets and help reduce the number of animals needlessly euthanised or surrendered due to a lack of suitable accommodation.

"We met with the Animal Welfare League and were shocked to learn how many pets in the shelter were surrendered because their owners couldn't find a pet-friendly rental property," said Terri Scheer Insurance executive manager Carolyn Parrella.

"While legislation has been introduced in some states to prevent landlords refusing tenants on the basis of pet ownership, our policy supports landlords in managing the risk of pet damage."

Approximately 25 percent of all animals surrendered to the Animal Welfare League Queensland last financial year was due to the inability of their owners to find pet-friendly homes.

The RSPCA reports the same issue, with between 15–30 percent of the 45,000 dogs and 54,000 cats surrendered to them last year given up because their owners couldn't take them into their new rental property. Of those, sadly 6,000 dogs and 14,000 cats were euthanised.

To help combat this issue, Terri Scheer increased the limit for pet damage five-fold to \$2,500 per claim in all of its landlord insurance policies.

Additionally, pets are no longer required to be named on the lease agreement for properties insured by Terri Scheer in order for the landlord to make a pet damage claim.

"Pets are important members of many families and we empathise with both pet owning renters and landlords," Ms Parrella said.

"Like many Australians, lots of our team members own pets and understand the physical and mental health benefits they bring, and some of us are also property investors who own valuable assets that we want to protect.

"We worked closely with the Animal Welfare League before making industry-first changes to our policy to help encourage more landlords to accept pets.

"We hope this will help to reduce the number of pets in animal shelters across the country."

Ms Parrella said allowing pets to be housed in a rental property was a major decision for landlords and their property managers.

"The feedback we are getting from real estate agents and property managers is that the response to our changes has been very positive," she said.

"Landlords recognise that there are inherent risks associated with having pets in their properties, but we're starting to see increasing numbers that are willing to open their doors to renters and their pets.

"By increasing the claim limit five-fold, landlords can be assured they will be well-protected should the pet damage the property."

Ms Parrella said not all landlord insurance policies across the industry were equal.

"Many policies don't include cover for pet damage or are very restrictive in what can be insured, which is why it is so important to read the policy's product disclosure statement," she said.

For further information, visit www.terrisheer.com.au or call 1800 804 016.

About Terri Scheer Insurance Terri Scheer Insurance Pty Ltd ABN 76 070 874 798 (Terri Scheer) provides insurance cover for landlords, helping to protect them against the risks associated with owning a rental property. These include malicious damage by tenants, accidental damage, landlord's legal liability and loss of rental income. Terri Scheer acts on behalf of AAI Limited ABN 48 005 297 807 AFSL 230859 trading as 'Vero Insurance', the insurer which issues the insurance cover. Terri Scheer has not taken into account the reader's objectives, financial situation or needs. If you are interested in any of Terri Scheer's insurance products, the relevant Product Disclosure Statement should be considered first. It can be viewed online at www.terrisheer.com.au or obtained by calling 1800 804 016. Based in Adelaide, Terri Scheer services all states, territories and capital cities.

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