



02 September, 2020

## **Submission for review of real estate education regulations**

The stated objectives of the proposed Regulations are:

1. To ensure that the training undertaken by estate agents and agents' representatives equips them with the necessary skills to perform their duties competently and render services with the expected level of due care and skill. This objective will assist in :
  - improving the reputation of the real estate industry
  - reducing risks to vulnerable tenants, and
  - reducing disputes between consumers and agents.
2. To ensure the prescribed course of instruction for estate agents and agents' representatives does not impose an undue cost on the sector including business, consumers, and students.

The preferred option does not, in the opinion of this organisation, meet those objectives, and the rationale offered in the RIS is an outcome decided, looking for politically palatable explanations.

The relevance of what goes on in an un-regulated market like the UK bears little relevance to the highly regulated real estate environment that is Victoria. Unless DJCS (CAV) was seriously considering removing regulations from the property industry, the argument put forward is a distraction, and spurious. It would be negligent of CAV to consider such de-regulation in any serious way – but from the tone of the RIS, it seems it was a serious consideration.

The proposal to implement these new Regulations on 22<sup>nd</sup> October, 2020 leaves almost no time for the property industry and the training organisations that deliver the required training, any time to prepare for the wholesale changes proposed in this RIS.

There does not seem to be any transitional arrangements in place for agents currently undertaking study towards either the Agent Representative or the Estate Agent's qualifications – which from a “consumer notification/detriment” perspective seems to be patently unfair.

The CPP Training Package was released in 2019 after extensive involvement by all State-based regulators and the various Real Estate Institutes through the national body that developed the new program. To allocate just 4 weeks to provide comment, 2 weeks to review those comments, and have a set implementation date, does not suggest much credence will be given to views that do not support the decision that seems to have already been made to go with the selected Option 3.

That suggests the public consultation is for appearance purposes only – and does not seem to take the views of industry seriously.

Should the training requirements for an Agent Representative be more stringent than they are now? Yes, of course, they should. The current three (3) units of competence required to become an Agent Representative in Victoria is among the lowest in the whole country - not THE lowest, but a long way from the highest, as well.

Of the Options offered in 1.4, it is the opinion of MRT Training, that Option 1 is the most suitable to the development of skilled, confident, educated and competent agents, as part of a skill acquisition and development program which will protect and benefit consumers, reduce complaints and have the end result of a better industry – if delivered OVER TIME.

If the intent of the Option 3 proposals is to drastically reduce the number of agents operating in the industry, it will undoubtedly achieve that purpose.

If the intent is to increase the “barriers to entry” it will achieve that purpose.

If the intent is to do any of the things outlined as the Objectives in 1.3 of the RIS, it will fail miserably.

To expect the full CPP41419 Certificate IV in Real Estate Practice to be the new entry level qualification is a “step too far” in our opinion. The Performance Evidence for competency-based training in this qualification necessitates actual performance of tasks that only an Agent Representative can undertake – for example, listing property, appraising, or marketing property.

These tasks can be undertaken in a simulated/artificial environment, but that hardly gives the candidate any practical, real-world experience in the sector. To expect them to outlay the considerable cost involved for a full Certificate IV before deciding if the industry is for them is also a cost-burden many cannot (and will not) bear.

To require an Agent Representative to pay for and undertake, effectively, 6-12 months of study without any practical experience in the industry will not achieve the stated objectives of the RIS.

#### **Estate Agent program (1.4.2)**

The assumption here seems to be that everyone will remain an Agent Representative, unless they wish to become an Officer-in-Effective Control. The requirement to have the full CPP41419, PLUS four (4) additional prescribed units, AND the CPP51119 Diploma to become an Estate Agent will have the result that no one will become an Officer-in-Effective-Control because of the time and costs involved in completing such a program of study.

This will have considerable detrimental impacts on the industry, consumers, compliance, and the professionalism of agents – the exact opposite of the stated intentions of the proposed program.

The case has not been well-presented to require Option 1 to be considered. Why the need to go beyond the full Certificate IV with 4 prescribed units (not everyone will want to be an auctioneer – and not everyone needs to be an auctioneer).

Option 2 – commercial sales and leasing is a different industry sector to residential sales and leasing. Most commercial agents operate very differently (of necessity) in the commercial, industrial and retail space to those in residential. The need for consumer protection requirements is much less – and is evidenced by the number of disputes that find their way to CAV or VCAT for resolution.

Likewise, Option 4 for Estate Agents does not seem to have any logical basis for it other than to be able to be discounted/dismissed in favour of Option 3.

#### **Costs.**

Someone was seriously in a parallel universe when they came up with these figures.

The cost of the Agent Representative course is proposed to increase by a factor of 10 from about \$500 to \$5,531 – using the figures provided in the RIS.

The full cost of the CPP41419 from MRT Training is \$2,750, but I'm happy to increase those fees to meet CAV figures and let everyone know it is "on the recommendation of CAV".

For the Estate Agent program, the fee suggestion is up to \$12,000 per individual. Again, I will happily increase our full fee for the Cert IV and Diploma (combined) from \$6,250 – practically speaking, doubling our fees, based on CAV recommendations!

Costs to employers and consumers that are outlined in the RIS are a fantasy – and not based on anything resembling the real world of training in the property sector in Victoria in my experience over the past 12 years.

The costs to RTO is similarly based on a world-view that is detached from reality. Before an RTO is able to offer a course of study, they must have the course materials developed and ready to deliver BEFORE they are able to offer the course. "Annualising" the development costs over 10 years is an interesting strategy – and I'm sure it could possibly work if RTOs were government departments – but we're not!

We are small businesses, by-and-large. We need to pay the development costs when the products are developed, and we incur those costs at the time, without the luxury of annualising that cost over a 10-year period. Those costs will be passed on to students, in the form of increased fees. To suggest otherwise is possible, is, again, in that parallel universe inhabited by the authors of the RIS.

On other matters in the RIS: Enquiries to CAV and actions taken does not seem to indicate a significant, industry-wide problem. If there are such major issues requiring action, then either the regulator is not doing their job, or the industry is "behaving" pretty well. 2019 would suggest considerable improvement on previous years!

The following are CAV figures in the RIS.

2016 - 4,406 enquiries, 273 warning letters - 6.19%.  
2017 - 6,365 enquiries, 335 warnings - 5.26%  
2018 - 6,104 enquiries, 352 warnings - 5.76%  
2019 - 6,981 enquiries, 167 warnings - 2.39%

Is there a valid connection between the amount of training undertaken by agents, and the number of disputes involving consumers and agents? If it exists, it is a rather tenuous connection. The number of complaints is, arguably, a product of the ease of making a complaint v. the efficacy of that complaint and whether it is upheld by the regulator. The numbers above support the claim of a tenuous connection.

**Consultation** – a single private RTO, REIV, DET (not individual TAFE that offer the courses), 3 industry trainers (probably from REIV) and 3 State and 1 Territory government – were consulted. This is, as indicated at the start, a decision seeking a purpose to justify its promotion.

*"The Department sought general feedback on the new training package from stakeholders that deliver Victorian coursework"* – we've been delivering licensing programs in Victoria since 2009, and we were not contacted at all. Nor, to my knowledge, was any other registered training provider, other than Kaplan, and the REIV.

In any case, our suggestion (with the clearly stated expectation that it is way too late for any alternative proposal to be considered) is as follows:

**For Agent's Representative:**

**Step 1:** entry to employment in any agency is premised on successfully completing the five (5) CORE units of CPP41419 (and perhaps the CPP4101 Appraise property for sale or lease, and CPP4102 Market property) – a total of up to 7 units prior to commencement of employment.

**Step 2:** the remainder of either Group A or Group B to be completed within the first year of employment in the industry – depending on the area determined by the employer (responsibility for this to be overseen by the OIEC).

**Step 3:** Whichever of Group A or Group B not completed in Step 2 and the remaining 3 elective units for a full CPP41419 to be completed by the end of the 2<sup>nd</sup> year of employment (again, with oversight responsibility to rest with the OIEC). There is sufficient options available here for “specialisation” if required to commercial, auctioneering, or PM, as required by the specific OIEC and agency practice.

Failure to meet the requirements by the end of Year 2 would see the Agent Representative become “ineligible” to hold the Agent Representative qualification until the full qualification has been gained. There would be no additional compliance checking costs than currently exists for regulatory inspectors when monitoring offices.

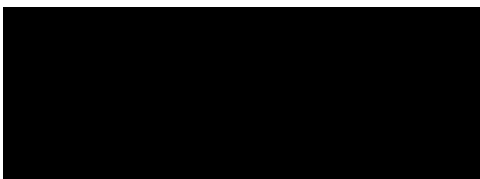
**For Estate Agents:**

**Step 1:** must have held the Agents Representative qualification (with a full CPP41419 Certificate IV in Real Estate Practice) for at least one full year before being able to qualify as an Estate Agent.

**Step 2:** Must have met the requirements for the CPP51119 Diploma of Property (Agency Management) as the educational qualification to become an Estate Agent.

I would be happy to provide any additional information, if required – and would be more than happy to actually be consulted, also, if required.

Yours sincerely,



Tony Rowe  
CEO