

*Bills***PROPERTY, STOCK AND BUSINESS AGENTS AMENDMENT (PROPERTY INDUSTRY REFORM)
BILL 2017****Second Reading Debate****Debate resumed from 21 November 2017.**

Ms YASMIN CATLEY (Swansea) (16:44): I am pleased to lead for the Opposition in response to the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017. The property industry is one of the most critical industries in the State. It provides shelter and accommodation for us all. Secondly, it is a powerful segment of the State economy. In his second reading speech the Minister acknowledged this, noting that the buying and selling of property brings in a staggering \$11 billion in stamp duty each year. Property industry operations affect all of us. Yet for decades, the Government has taken a very light-touch approach to the regulation of the broader property industry. One of those aspects has been the regulation of real estate and property estate agents.

As the Minister noted, consumers place a tremendous amount of trust in and expectations on the actions of these agents who deal with what is normally one of the largest and most important decisions a family or an individual can make—the buying and selling of one's home. Yet the actions and behaviour of some of these agents betray this trust—I note that almost 10 per cent of all complaints received by NSW Fair Trading concern real estate and property matters. The bill seeks to lift the bar when it comes to the regulations and, importantly, the training and accreditation of property, stock and business agents. It is incremental reform and I note the Minister intends to bring subsequent changes to the House later this year. The Opposition supports any effort to raise the bar in terms of licensing, training, and ongoing professional development of property, stock and business agents—and supports the bill.

In turning to the contents of the bill, the Opposition clearly sees a need for action and for lifting of the regulatory bar. We will start with the new licensing framework. The central component of the bill is the creation of a new licensing framework to oversee the industry. The new licensing framework is sound and will hopefully lead to a higher degree of expertise and professionalism across the board. There is a genuine concern both within the community and the industry that the educational and training requirements to practise in this field are way too low. The three classes of licence contained within the bill reflect the various skills, proficiencies and competencies required across the field. Class 1 licence, the highest level, will be required for those in charge of a business and will require at least two years' work experience. The holder of a class 1 licence will have to hold either a diploma from the national Property Services Training Package or a certificate IV, as well as an equal qualification in business management.

The second class, equivalent to the full agent's licence, will apply to licenced agents requiring the current certificate IV qualifications as well as 12 months of industry experience. The final, third class of licence for new entrants or certificate of registration holders will require a total of seven competency units from the certificate IV qualifications—an increase of three from the current four units required. The bill provides that any licence or certificate of registration can be granted for a period of one year or five years. The bill also makes exemptions for those working within the industry who do not undertake any real estate functions—such as graphic designers, receptionists and the like.

The bill updates the Act to reflect the fact that these days transactions often occur while the licensee in charge is not physically present. This accounts for modern technology and the internet, which can enable a licensee in charge to supervise more than one office without being physically present. The new licensing framework is welcomed, as is the bill's intent to streamline and simplify the framework and reduce the number of licences required. This makes it clear to both industry and the consumer what is required of someone operating within the real estate and property industry at a particular level. The Opposition notes that the qualification and specific competency units will be subject to further industry consultation.

The Opposition notes the bill's intentions towards continuing professional development. This is a critical part of the industry—ensuring ongoing professionalism. There are some aspects of this that the Opposition would like to see strengthened, which I will refer to later. The bill also introduces new restrictions on gifts and subsequent penalties of up to \$2,200, which seek to avoid situations in which the agent may not or may not be seen to be acting in the best interests of their client. Practical exclusions are foreshadowed—such as gifts from clients—and this is supported.

The bill requires all trust accounts to be lodged with NSW Fair Trading. The Opposition supports this, and believes it should not create a significant burden on the industry, particularly given the extra transparency that will be delivered. I note the Government's intention to develop an online audit lodgement portal, which should further reduce any administrative burden. Finally, the bill gives the secretary of the department more discretion in suspending a particular licence, allowing a suspension for as long as the secretary reasonably considers appropriate to investigate any matter and removing the artificial limit of 60 days. Given the seriousness of some of these matters, the Opposition supports these enhanced powers.

There are a number of clarifications I seek and some commitments I will make on behalf of the Opposition. I will start with business agents. The Opposition has been contacted by a number of business agents who have concerns over the impact of this bill—unintended or otherwise. I know that my colleague the shadow Minister for Small Business, who actually has experience in the work and complexity of buying and selling businesses, has also raised these concerns. The member for Strathfield has also raised these concerns on behalf of local business agents in her electorate. I understand the bill will remove the concept of business agents and incorporate them into the second class of licence. I would like the Minister to clarify that the concerns of business agents have been considered and, if not, that they will be taken into account during the making of the regulations. We must ensure the legislation and regulation distinguish the unique complexities of business agents compared with the broader sector.

The Opposition has received representations from onsite managers who manage short-term holiday lettings. Generally, these are up and down the coast. There is a concern that the unique circumstances of these agents has been lost in the bill. I seek clarification from the Minister over the impacts on these type of agents, as well as a commitment that the department will consult with this group moving forward. As I said, the Opposition supports the intent of the bill and will support it. However, we will move an amendment on a rather simple, but important, issue pertaining to continuing professional development in the other place. Our consultation with the industry has revealed great support to lift the bar when it comes to ensuring ongoing professionalism within the industry. Rapid changes in the industry require that practitioners must remain up to speed with these changes, as well as the regulatory environment.

The Opposition is concerned by anecdotes that the current requirements are woefully inadequate, to a point where units that technically require 4½ hours to compete can be completed within 3½minutes. This is not what we mean by continuing professional development. The Opposition is concerned that aspects of continuing professional development are driven by financial considerations rather than the ongoing professionalism of the industry. As such the consumer interest may not be central to the status quo. The Government intends to overhaul the continuing professional development guidelines and enshrine them in commissioner guidelines. However, the Opposition believes that the guidelines should be enshrined in regulations, which would ensure ongoing consultation with industry and ensure that the sentiments expressed by the Minister in his second reading speech are translated into practise.

As I said at the outset, the Government has used a light-touch approach to the regulation of the property industry in New South Wales and the losers have been the broader New South Wales public. The bill is supported as it addresses inadequacies in the property service agent industry. As such, overall, the bill enjoys the support of the Opposition. But there are other areas in which the Government has either lagged or has failed to respond: affordable housing, short-term holiday rentals, kicking the excellent Lambert review into the long grass, and shameful delays in an appropriate response to flammable cladding. Those are just some of the areas in which the Government has failed to respond appropriately or, in some cases, at all

I believe the Minister understands many of these issues and the need to respond, but he is hamstrung by the right wing cowboys on his side—those who do not want to see tighter regulation of the property industry, those who would prefer a laissez faire, let-it-rip approach. The Minister should stand up to those on his own side to ensure that consumers, homebuyers and renters get a fair deal. But time is running out for the Minister and it will fall upon the Foley Labor Government to sort out the mess left by the eight years of inaction, delay and neglect of this Government in relation to a balanced regulation of the building and property industry.

For the past decade New South Wales has experienced a building boom, but, unfortunately, our regulatory tools have either been insufficient, weak or too hopeless and out of date to ensure New South Wales has the housing stock we deserve. Many in the profession and the industry believe we are sitting on a time bomb and that the impact will be hardest felt by everyday families across New South Wales. A cowboy approach by this lot in Government has given a green light to a cowboy approach in many parts of the industry—

TEMPORARY SPEAKER (Mr Geoff Provest): Order!

Ms YASMIN CATLEY: Perhaps the member for Drummoyne should learn the rules.

TEMPORARY SPEAKER (Mr Geoff Provest): Order! I think that judgement should be left to the Temporary Speaker.

Ms YASMIN CATLEY: I was just offering my assistance to you, Mr Temporary Speaker.

TEMPORARY SPEAKER (Mr Geoff Provest): I appreciate the offer of assistance, but it is not require. Thank you.

Ms YASMIN CATLEY: A cowboy approach by this lot in Government has given a green light to a cowboy approach in many parts of the industry, and my concern is that we all—community, government, and industry—will pay a much longer-term cost that will dwarf the short-term gain of the past several years. Labor understands the fundamental importance of certainty around the construction, sale and purchase of the family home. For most of us, the buying and selling of a home is the single biggest economic decision we will ever make. We support this bill, as it raises the bar when it comes to agents acting on behalf of buyers and sellers. We encourage the Government to do much more when it comes to the broader industry, because it is not just the buying and selling where stronger consumer protections need to be considered. I commend the bill to the House.

TEMPORARY SPEAKER (Mr Geoff Provest): Order! I call the member for Wollondilly and I draw the attention of the House to his footwear. Being a property, stock and business agent, he certainly fits the bill this evening.

Mr JAI ROWELL (Wollondilly) (16:57): Thank you, Mr Temporary Speaker, and I congratulate you also on your fine footwear over the years in this place. I speak in support of the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017 and I commend the Minister for Innovation and Better Regulation for bringing this bill to the House. I also commend his fantastic staff who do a great job day in, day out. I am very confident that the measures in this bill will go a long way to protecting consumers against potential risks by better regulating the industry. The reforms will improve professionalism and standards by enhancing the qualifications of certificate and licence holders.

During the development of the reform package, a review of the licensing model was undertaken using the Licensing Framework and Guide that was developed by the Independent Pricing and Regulatory Tribunal [IPART]. The IPART Licensing Framework and Guide was one of the results of IPART's 2014 comprehensive review of New South Wales Government licences conducted—a considerable amount of work was undertaken. The Government committed to applying the IPART Licensing Framework and Guide when developing or reviewing regulatory or licensing systems to ensure that they are efficient and to facilitate removal of any unnecessary regulatory burden. The assessment of the current licensing system concluded that while a licensing framework was warranted, the design of the framework could be streamlined. In this regard, the bill will provide for the integration of the buyer's agent licence, onsite residential property agent's licence, and the business agent's licence into the real estate agent's licence.

The current holders of the licence types to be merged will not be inconvenienced as their licences will be grandfathered onto real estate agents' licences. That means it will be business as usual for them, which has to be good news. The qualifications for these licences that will be merged have some commonality with the qualifications for the real estate agent's licence. In fact, for some licence types they are a subset of the real estate agent's qualification. This reform means that future real estate agent licence holders will be able to undertake more regulated functions. The qualifications that will be required to obtain a real estate agent's licence will be revised to ensure they provide for these expanded functions.

I am aware that some onsite residential property managers who manage smaller strata schemes in Merimbula have expressed concerns about the impact of the new licensing framework on their ability to sell their businesses. The Government is well aware of this specific situation and I am advised that senior departmental staff have spoken directly with a number of these property managers to clarify their circumstances. The current real estate industry laws make allowance for exemptions to be implemented, and this can be used to deal with the situation. These property managers have been provided with written clarification of how the exemptions can operate so as to mitigate the impacts on their businesses. That is what this side of the House does: It consults relevant stakeholders, it listens to the community and it comes up with great policy. As some members may be aware, the original real estate reform package proposed to delete the corporation licence. However, it has since been determined that the corporation licence should remain.

Further examination of this issue, in liaison with stakeholders, has indicated that if the corporation licence were deleted, there would be some unintended consequences and possibly disruption to the workings of real estate and property businesses, and confusion for their clients. However, there will be consideration of reducing the fee for a corporation licence to help cut costs to industry. It does not matter what portfolio it is, as the Premier and the Treasurer continually say, this Government cuts taxes and delivers infrastructure for the people, and this is another example of that. The bill will introduce a new licence class with higher qualification requirements for licensees in charge, to be known as a class 1 licence. Licensees in charge have overall responsibility for supervising business operations, and these changes acknowledge the extra responsibilities of licensees in charge. The current licence category will be retained as a class 2 licence. Class 2 licence holders will be known as "licensed agents".

The current entry-level requirement of a certificate of registration will be retained. Certificate holders will be known as "registered agents". Qualifications reforms for the registered agents, licensed agents and licensees in charge will be introduced by changes to the property, stock and business agent's qualifications order. The qualifications reforms will ensure that persons working at each level have appropriate knowledge for the task they will undertake, because we know how important their role is in our community. Under existing requirements, an individual must complete four competency units from a relevant certificate IV course to be eligible to apply for a certificate of registration. Under the new framework, an individual will have to complete seven competency units from a relevant certificate IV course.

Key stakeholders have already provided Fair Trading with advice on which specific competency units should be required. Further industry consultation will be undertaken to determine exactly which competency units are the most appropriate. In order to progress to obtain a class 2 licence, individuals will still have to complete a relevant certificate IV qualification. In addition to a certificate IV, licence applicants will need to have 12 months' work experience in the industry. Generally, people undertaking their certificate IV studies are also working in the

industry, so it is most likely that they will have met the experience requirements by the time they have completed a certificate IV.

In order to progress to obtain a class 1 licence and qualify to work as a licensee in charge of a business, individuals will need to hold either a diploma from the national Property Services Training Package or a certificate IV and an equal qualification in business management.

Furthermore, class 1 licence applicants will also need to have two years' work experience. The responsibilities of licensees in charge are significant and as such warrant higher qualification and experience requirements. There will be more flexibility, as one licensee in charge will be allowed to supervise more than one office of the same business. Of course, grandfathering arrangements will also apply to current licence holders working as licensees in charge to ensure that there is no interruption to business operations when the new framework comes into force to minimise potential industry disruption.

To reduce the regulatory burden, a specific exemption from the requirement to hold any qualifications will be introduced for people working in agencies who do not undertake any regulated functions. For example, this would include reception, administration and graphic design work. Of course, employers can still choose to employ only qualified people regardless of what duties they perform. I understand that Fair Trading will continue to work closely with industry associations ahead of these measures being implemented fully. I am confident that the licensing and qualifications reforms will lead to a positive outcome for the industry and consumers.

According to the Australian Bureau of Statistics, the real estate sector in New South Wales is worth more than \$15 billion per annum to our economy. New South Wales collected more than \$11 billion in stamp duty during the last financial year; which certainly goes a long way towards supporting our schools, hospitals and roads. The Government wants to ensure that the industry is relevant, people are adequately qualified and we have world's best practice, which is why we have a fantastic Minister who is doing considerable work and reform in that space. I commend the bill to the House.

Ms JENNY LEONG (Newtown) (17:06): I speak on behalf of The Greens on the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017 and express The Greens' support for the bill. Anything we can do to address protections for renters in this State is a very good thing. All renters would know the many challenges involved in dealing with real estate agents. Unfortunately, the Minister and members would be aware of the many reports of dodgy deals and problems associated with real estate agents so it is pleasing that this bill aims to increase training and licensing requirements for property and real estate agents to reduce the risk to customers. The bill includes a number of other reforms to effect change in this space.

Renters in many areas throughout New South Wales now outnumber those with a mortgage. That is a huge generational shift. I urge Government members, especially ministers and the Premier, to look at statistics in their own electorates where, for the first time, the number of renters in blue ribbon Liberal-held electorates may now outnumber people with mortgages. Older people may own their homes, but a whole generation of younger people are now completely cut out of the property market; it is not a realistic prospect for them. I acknowledge that home ownership rates have gone up for first home buyers, but we must recognise that owning a home is not a reality for many young people and we must do everything we can to protect the rights of renters. I have been a strong advocate for reforms to protect the rights of renters since being elected to this place in 2015.

We see a power imbalance between some real estate agents and renters that has placed huge pressures on renters. We know also that in many cases the property managers in real estate agencies are themselves renters. They usually occupy a junior role and receive more complaints and have more responsibilities within a property portfolio than they can actually manage. A renter living in Enmore or Redfern whose oven or window breaks or who has a problem with the door lock—

Mr Damien Tudehope: Point of order: I accept that the member for Newtown is very passionate about the rights of renters, but she should address the leave of the bill.

The ASSISTANT SPEAKER: Order! The member for Newtown is straying from the leave of the bill. I ask her to return to the leave of the bill.

Ms JENNY LEONG: I state in summary that one of the purposes of the bill is to address the high rates of complaints in the property and real estate sector, as they accounted for 9 per cent of all complaints to Fair Trading in the last financial year. My understanding is that in his second reading speech the Minister for Innovation and Better Regulation stated:

The reform package will put consumers first by improving educational and professional standards across the industry, improving accountability and transparency.

I was simply pointing out the problems the bill was seeking to address in one small part by highlighting the challenges renters face if their oven or a lock is broken, and if they try to report something else to the real estate agent. However, because of challenges and issues around the real estate industry and real estate agents, these reforms are very welcome. Also welcome is the banning of gifts and donations. The bill seeks to prohibit licence holders from receiving certain gifts. This is imperative to the integrity of the office and should also apply to political parties. Donations can corrupt the integrity of the office. Members would all agree that this is true whether one is a politician or a real estate agent.

We support the provision in the bill to allow licences to be suspended for up to 60 days. This is an important measure to give teeth to the rules. In addressing housing affordability and the housing crisis in this State we should look not merely at the needs of first home owners, those currently living with mortgages or those who own their home outright; we must deliver reforms for renters because it is through those reforms that the fundamental premise of housing as a human right will be delivered in this State. It is good to see these changes. Anything that strengthens regulation in the real estate and property industry is welcomed. The Greens are happy to commend the bill.

Mr DAMIEN TUDEHOPE (Epping) (17:11): In 2016 the Department of Fair Trading provided the Government with the real estate and property services industry reform paper and as a result of that paper this bill, the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017, was introduced into the House. I note that both the Opposition and The Greens support the bill; indeed, it would be hard to see how the scope of the bill would not be supported. Having been in a suburban legal practice for the best part of 32 years I am intimately acquainted with the practice of real estate agents and the manner in which they conduct business. My experience is that 95 per cent of real estate agents do a remarkable job of acting in the interests of their clients.

However, in the same way that there can be problems with lawyers and the way they look after their clients, so, too, there can be problems with the manner in which real estate agents behave. The circumstances in which real estate agents conduct business is fundamentally the scope of this bill. Real estate agents hold trust accounts for money they receive for properties that are part of the rental market for which they are accountable to the landlord for whom they act.

Real estate agencies receive money on behalf of vendors when deposits are paid for real estate transactions. This bill makes it a requirement that those accounts be separated. It also introduces requirements relating to the auditing of accounts and agents accounting to landlords in respect of moneys that they receive on a regular basis on behalf of the landlords. Those sorts of provisions have been in place for many years. Lawyers are now subject to a regime relating to the manner in which they conduct their business. They are subject to regular inspections and trust account audits, and they have to submit annual audits to the Law Society as part of obtaining their certificate.

No-one realistically suggests that similar provisions should not apply to real estate agents who hold money on behalf of others. In circumstances where money is held on behalf of others it is only reasonable to expect that there would be provisions for those accounts to be properly audited and for systems to be put in place to ensure that the money in those accounts is properly protected. We live in a complex and changing world. When I first became a lawyer a contract for sale of a property generally comprised a two-page document. A zoning certificate was then added to that two-page document. Most contracts for the sale of property now comprise hundreds of pages because of the obligations to disclose to a potential purchaser anything relevant to their decision to buy a property.

Vendors are required to disclose the zoning of the property, the location of the sewer line and anything that may affect the purchase of the property. When a property is purchased off a plan a copy of the strata plan is required to be included in the contract. More recently, pest and building reports are also the subject of disclosures by vendors. The sale of properties is now much more regulated. That reflects the Minister's observation that the purchase of a property is the single most important transaction that any person. That places an obligation on vendors to tell purchasers everything they need to know relating to a property.

Real estate agents are the people who are making representations on behalf of vendors. They have a duty to purchasers not to say anything about a property that is potentially untrue. For example, an agent might be aware of an asbestos affectation in respect of a property and he or she does not disclose it. It is the duty of vendors to disclose that affectation when dealing with a property. Similarly, there may be an obligation to disclose to a purchaser a realistic price range for a property. The manner in which agents conduct themselves when dealing with properties for auction is pertinent. Purchasers who go to an auction are often required to provide before auction a series of reports, such as pest reports, building reports, strata inspection reports and bank approvals.

On many occasions people have told me, "I have run second at 10 auctions." The cost for purchasers potentially is \$1,000 for each auction. Often they come second because they are led to believe that they might be

successful at auction because of the behaviour of the real estate agent. The agent says, "We think it will go for such and such a price", which is within the borrowing capacity of a purchaser, and the purchaser bids at that auction. Agents should be informed of the requirement to ensure that they are fit and proper persons to be a real estate agents in the same way as practising lawyers are obliged to demonstrate that they have been involved in continuing legal education.

These provisions will now apply to real estate agents so that they know and understand their ethical obligations and they are aware of potential insurance obligations. Lawyers are always concerned to ensure that they are not sued. Continuing professional development [CPD] is a tool for agents to protect themselves from litigation as a result of the way in which they conduct their business. Real estate agents should embrace continuing professional development and welcome it for their staff. The member for Swansea was concerned about whether CPD requirements would be included in regulations or guidelines. There is merit for CPD requirements to be included in guidelines as it will enable the Department of Fair Trading to deal with issues that arise from time to time. [*Extension of time*].

Real estate agents must continue to ensure that they do not become the subject of legal action. If CPD requirements are included in guidelines it will assist the Department of Fair Trading to deal with a raft of complaints. It will be able to say to real estate agents, "These are the sorts of complaints that we received in the past 12 months. We developed our modules for continuing education on the basis of real life examples of the things that we are facing within your industry". Of all the service industries the real estate industry is complained about the most. When there are lots of complaints about the behaviour of agents, the department and those running continuing professional development courses must be able to deal with issues as they arise. It is too heavy handed to change the regulations to equip bodies with modules that need to be updated. It is a much better tool in the hands of the department which can look at trends in the industry and remain agile and flexible enough to address them. I understand the member's concern about regulations and enforcing them on the industry. However, I favour the adopting of regular guidelines.

It is hard to argue with any of the CPD requirements. A regime and point system must be attained by agents of specific industries. It is clear that different modules must be completed by people in the rental industry, strata management and sales. It is also necessary to have a degree of flexibility in the development of trading modules as they arise.

The member for Swansea was concerned that one module covering a particular subject that could potentially be taught over 4½ hours lasted only 3½ minutes. It is a matter for discussion with the Minister. However, I agree with her and question the value of a module that is capable of being completed in 3½ minutes. The training review is being developed and has stakeholder support. Recently I had the opportunity to visit the website of the Department of Fair Trading and it demonstrates the manner in which the training modules are being developed. The department is having significant input because it is keeping watch on the issues that are facing the industry. Different issues relate to the sale of property, strata management and how it is dealt with. This is worthwhile and sensible legislation. I commend the Minister for accepting the recommendations contained in the report prepared by the Department of Fair Trading and I commend the bill to the House.

Mr JOHN SIDOTI (Drummoyne) (17:26): I support the measures contained in the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017. As members have heard, this bill is the first step in the implementation of the Government's real estate and property services industry reform package. I echo the Minister's commendation to the Real Estate Institute of New South Wales, the Estate Agents Co-operative, the Australian Livestock and Property Agents Association, and Strata Community Australia for their significant contributions to the reform package. The amendment bill provides for many elements of the reform package, but other matters will be dealt with through the Property, Stock and Business Agents Regulation, which includes the rules of conduct; the Property, Stock and Business Agents (Qualifications) Order; guidelines for continuing professional development; and supervision guidelines for licensees in charge.

The reform package will introduce important measures dealing with audit processes and trust accounts. Licensees often hold large amounts of money on behalf of clients, either in a general trust account or a separate trust account held exclusively for the benefits of a single client. Trust money can include rent receipts and sales deposits. I understand that the majority of real estate agencies use separate trust accounts for sales deposits and rental income. In the case of sales deposits, the money should be transferred to the vendor by the end of the settlement period, which is usually six weeks. In the case of rental trust accounts, there is no due date or deadline for agents to transfer rental incomes to a landlord. An agency that manages a large number of rental properties would routinely collect significant amounts of money from rental payments. Failure to account occurs when a landlord requests the money owed and the agent fails to comply. By the time this happens, a substantial amount of money may be owed.

Most thefts of trust money are associated with rent not being passed on in a timely manner. An agent's failure to account for money held in trust remains a major risk area for the industry and a major source of consumer detriment. In 2017, following a Fair Trade investigation, a Sydney real estate agent was sentenced to three years imprisonment for stealing \$400,000 of his clients' funds. During the past financial years the Property Services Compensation Fund paid out approximately \$436,000. Other significant consumer repayments from businesses have occurred when Fair Trading has appointed a manager. Clear measures are needed to better address such problems. All real estate and property industry licensees are already required to have their trust accounts audited. However, only qualified audits must be lodged. An audit would be qualified when there is a limitation of scope in the auditor's report or if there are issues with a business' accounting policies.

However, the data obtained from unqualified audits can be useful in identifying risks to trust money and could facilitate proactive compliance action by Fair Trading. Examination of trust account audits are an effective means to ensure compliance and to detect potential problems where action may need to be taken. Greater security and protection for consumers' funds held in trust could reduce claims on the Property Services Compensation Fund. This could provide for licensees' mandatory contributions to the fund to be reduced, which will be a benefit for the industry. For those reasons, the bill will introduce a requirement for all audits to be lodged with Fair Trading. Fair Trading is developing an online portal, which will be in operation before the new audit requirements are introduced. This will minimise the administrative burden on industry.

The bill also introduces additional means for Fair Trading to take quick enforcement action on specific grounds. Currently, if there is a reasonable cause for taking disciplinary action that could involve a breach of any lawful obligation, a licence condition or the rules of conduct, Fair Trading would issue a show cause notice to a certificate holder or licence holder. The show cause notice includes grounds for why disciplinary action may be taken and gives the person a minimum of two weeks to respond. Even if adequate grounds exist for an immediate suspension, it can last for only 60 days. The new power to extend the maximum 60-day suspension will provide a stronger disincentive for specified breaches. It will also provide more time to investigate the issue and will be an effective way to minimise potential consumer harm. Specific additional grounds for immediate and extended suspension will be failure to submit audits and in cases of high consumer risk.

To strengthen procedural fairness, the bill also amends the disciplinary process to ensure that certificate and licence holders under suspension have an opportunity to be heard after an initial suspension of 60 days. The importance of effective disciplinary powers in the real estate and property industry cannot be understated. The new measures in the bill will assist the activities of Fair Trading, which will help to deter repeat illegal conduct and will send a clear message to the industry that the Government is serious about compliance. I commend the bill to the House.

Mr JAMES GRIFFIN (Manly) (17:33): I am pleased to support the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017. To understand the importance of the bill, we must appreciate the size and scale of the industry. The New South Wales real estate and property services industry is regulated under the Property, Stock and Business Agents Act 2002. The last statutory review of these laws was conducted in 2006. The last major amendment introduced enhanced underquoting laws in 2015. It is essential that the legislation regulating the industry balances a need for appropriate levels of consumer protection with the need to ensure the efficient and effective operation of the industry.

A reform package was set out in the Government's real estate and property services industry reform paper that was released in November 2016. The Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017 is the first step in the Government's real estate reform package. The real estate reform package will put consumers first by improving educational and professional standards across the industry, improving accountability and transparency, streamlining the licensing framework and strengthening Fair Trading's compliance and enforcement powers.

Apart from the amendment bill, other key elements will be introduced by amendments to the Property, Stock and Business Agents Regulation, which includes the rules of conduct; the Property, Stock and Business Agents Qualifications Order; the guidelines for continuing professional development; and the supervision guidelines for licensees in charge. These aspects of the reform package will be the subject of consultation with industry associations and the community in coming months. The Real Estate Institute of New South Wales, the Estate Agents Co-operative, the Australian Livestock and Property Agents Association and Strata Community Australia have made significant contributions to the development of the reform package. The Government will continue to work closely with these key industry associations during the implementation of the reform package.

According to the Australian Bureau of Statistics, the real estate sector in New South Wales is worth more than \$15 billion per annum to our economy. The New South Wales Government collected more than \$11 billion in stamp duty in the last financial year, underscoring the importance of these reforms. Currently, under the Property, Stock and Business Agents Act 2002 there are six licence categories as well as corporation licences, that

is, business licences. To enter the industry, people need to get a certificate of registration, then they can study and work towards a full licence. The licence categories are real estate agents, stock and station agents, strata managing agents, business agents, onsite residential property managers and buyers' agents.

To become an auctioneer, an individual must hold a licence as a real estate agent or stock and station agent, then obtain further accreditation to be an auctioneer. I think many members in this place would be great auctioneers. The number of people entering the real estate industry is increasing, further underscoring the importance of these reforms. In recent years there has been a steady growth in the number of people entering the real estate industry. For example, as at February 2018, there were 21,793 real estate licensees, 26,825 certificate holders and 7,814 corporations.

Demonstrating the underlying need for this reform, unfortunately, but perhaps not surprisingly, Fair Trading data shows that there were 4,077 complaints about real estate and property matters in 2016-17, accounting for 9 per cent of all complaints during the period. While this is an improvement on the preceding financial year, it still represents a very high proportion of complaints received. In recent financial years, the Property Services Compensation Fund had paid out up to \$2 million or \$3 million per year. In the last financial year approximately \$640,000 was paid out. Much of this loss of consumers' money involves agents taking amounts from trust accounts, especially rental trust accounts. Requiring agents to account to landlords at the end of each month for all money received from tenants would provide an earlier warning of a failure to account and thereby reduce losses. This may also help to reduce the amounts paid by the compensation fund. New auditing requirements will also help identify any questionable activity and may serve as an early warning system of questionable dealings.

While there is no prescribed standard for fees charged by licensees, consumers pay on average from 2 per cent to 5 per cent of the sale price of a property to the selling agent, which may or may not include marketing fees. However, commissions can be higher in areas with low property turnover. Fees to manage rental properties also vary, but can be between 5 per cent and 10 per cent of weekly rent, and can include the first week's rent as a letting fee. A recent targeted audit of 24 real estate premises in Sydney's west found more than 75 per cent failed to comply with real estate and property laws. Thirty penalty infringement notices totalling \$31,900 were issued. Particularly concerning was one business that was found to be operating without the necessary licence, and three that were using a trust account that had not been audited. The operation also targeted compliance with signage requirements, professional indemnity insurance, and renewal of a licence or certificate of registration under the Property, Stock and Business Agents Act 2002.

I turn now to reforms to licensing and training framework. The current licensing framework under the Property, Stock and Business Agents Act 2002 has six licence categories. They include real estate agents, stock and station agents, strata managing agents, business agents, onsite residential property managers and buyers' agents. To get a licence as an onsite residential property manager or a buyers' agent, people must complete a smaller number of specific competency units from a certificate IV course in property services. Business agents must also complete training from a certificate IV course in property services that has some overlap with competency units for real estate agent training.

The new licensing framework will have three levels of licences: licensees in charge, licensed agents and registered agents. The highest level will be a class one licence. This licence will be required for anyone working as a licensee in charge of a business. The framework will also provide more flexibility, as one licensee in charge will be allowed to supervise more than one office of the same business, but he or she will still have to ensure that business operations are being properly and effectively supervised. The next level will be a class two licence, equivalent to the current full agent's licence. Class two licence holders will be known as licensed agents.

Importantly, the bill also considers continuing professional development [CPD] guidelines which will be revised to introduce new requirements for each qualification level. The compulsory topics will cover key matters such as laws and compliance. They will be chosen by an industry-government advisory group and will be reviewed regularly. The bill will provide for key responsibilities to be limited to appropriately qualified persons. For example, only licensees in charge will be able to approve trust account withdrawals, whereas certificate holders will have more limited responsibilities.

Importantly, the bill contains a number of prohibitions on inducements. Under strata laws, strata managers are already subject to disclosure requirements regarding commissions and training, and are also subject to restrictions on gifts and benefits. Similar obligations will be imposed on other property industry licenses. The restrictions are aimed at potential inducements that could give rise to conflicts of interest. The bill also considers trust accounts and audits, providing new provisions which will require all trust account audits to be lodged with NSW Fair Trading. To minimise the administrative burden, an online audit lodgement portal is being developed. Failure to account for money held in trust is a major source of consumer detriment. Over recent years the Property Services Compensation Fund has paid out several million dollars. Agents will have to keep separate trust accounts

for sales and rent. Agents will also have to clear rental trust accounts monthly This will enhance accountability and transparency.

The reforms will provide for extended licence suspension while a licensee's conduct is investigated. This will provide additional consumer protections in cases where a dodgy agent could otherwise continue to work in the industry. Extended licence suspension will apply also for failure to submit an audit. These measures will improve the effectiveness of Fair Trading's compliance activity. I am aware of the energy and effort expended by the Minister and I am aware of the good work done by his staff and his department. It is clear that this well-considered bill has the support of the Opposition and The Greens. I commend the bill to the House.

Mr STEPHEN BROMHEAD (Myall Lakes) (17:42): I support the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017. The Act regulates the real estate and property services industry and establishes a mandatory licensing system for real estate agents, buyer agents, strata agents and business agents, among other professionals. The bill amends the Act in a number of ways: first, to provide for two classes of licence, one of which is required to be held by a licensee in charge of a business, and to permit regulations under the Act to specify which functions may be exercised under each class of licence; secondly, to permit a licence or a certificate of registration to be granted for one or five years; thirdly, to provide that the offence of an agent failing to disclose a material fact is limited to material facts of a kind prescribed by the regulations under the Act; and, fourthly, to prohibit the holder of a licence or a certificate of registration from receiving certain gifts.

The bill also requires the lodgement of auditor's reports and provides for the suspension of licences and certificates of registration.

The bill is part of a broader reform package that will consist of an amended Property, Stock and Business Agents Regulation 2014, rules of conduct, and various guidelines for continuing professional development and the supervision of licensees in charge. The package was detailed in the Real Estate and Property Services Industry Reform Paper published in November 2016. The reform paper was informed by a review, released in June 2016, commissioned in response to concerns regarding the lack of training of real estate agents and other property services professionals. The real estate and property industry and the community have sent a clear message that reform to the regulatory framework for agents is required. Although the majority of agents strive to conduct their duties according to the highest ethical and professional standards, Fair Trading data in the 2016-17 financial year showed that 9 per cent of all complaints to Fair Trading related to real estate and property matters. There is a clear need for government action, and this reform package will help address the situation.

I am confident that these changes will significantly improve consumer protection and strengthen the compliance and enforcement powers of Fair Trading. The bill will introduce a new, streamlined licensing framework. The buyer's agent licence, the onsite residential property agent's licence, and the business agent's licence will be merged into the real estate agent's licence. A new licence class for the licensee in charge will also be created. Currently, a licensee in charge supervises the business operations, which include supervising employees, ensuring compliance and monitoring the operation of the business. However, under the current licensing framework, a licensee in charge is not required to obtain a higher level of training and qualification.

Given the significant level of responsibility of licensees in charge, it is appropriate to require that higher level of training and qualification. The new licensing framework will enhance industry professionalism, and help minimise consumer detriment. The bill also provides for prescribed responsibilities of each level of qualifications. This means that areas of significant responsibility, such as having principal authority for the operation of trust accounts, will be restricted to those holding higher qualifications. Employees who do not undertake any prescribed activities will be exempt from the qualification requirements, potentially reducing the red tape burden on individual businesses.

The bill will introduce restrictions on gifts and benefits. It is reasonable to expect that agents should not be accepting gifts or benefits that are potential inducements. Such gifts or benefits could create a conflict of interest or act as an inducement to encourage agents not to act in their client's best interests. However, the restriction will not stop payment of employees' bonuses or rewards for high performance or for gifts from clients. Those types of gifts and benefits do not involve potential conflicts of interest. Additional compliance measures in the bill will allow Fair Trading to impose extended licence suspension on unscrupulous agents while under investigation, significantly reducing the potential risk to consumers.

The bill also introduces additional safeguards for trust accounts. All trust accounts must already be audited, but only qualified audits must be lodged. The bill will require licensees to submit all trust account audits, not just qualified audits. Failure to submit an audit will also be grounds for extended suspension of the licence while the failure is investigated. The new audit requirements will facilitate the early detection of potential financial issues in trust accounts. That is important as insolvent trust accounts are detrimental to a consumer's financial

situation. The new safeguards will reinforce the already robust existing consumer protection measures. I am confident that the reforms in the bill will improve the experience of consumers dealing with the real estate industry and promote professional conduct of real estate and property agents in New South Wales.

As I said, Fair Trading data shows that 4,077 complaints were made about real estate and property matters in the 2016-17 financial year, accounting for 9 per cent of all complaints during the period. While that was an improvement on the preceding financial year, it still represents a high proportion of complaints received. In addition, the number of licence holders has grown over the past few years. For example, as at February 2016 there were 21,793 real estate licensees, 26,825 certificate holders and 7,814 corporations. In comparison, in 2015 there were 19,908 licensees, 21,988 certificate holders and 6,632 corporations.

As the number of people in the industry has increased significantly there is a need for greater accountability. People running businesses must have higher qualifications and a better understanding of their requirements. As an example, trust accounts hold significant amounts of money—a 10 per cent deposit on a \$1 million property is \$100,000. An agency could be doing dozens of such transactions, and that is money purchasers can ill afford to lose. However, a number of complaints have been made about real estate agents using trust accounts to fund their lifestyles or meet their costs of living. I commend the bill to the House.

Mr MARK TAYLOR (Seven Hills) (17:52): It is a pleasure to speak in debate on the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017, which the good Minister for Innovation and Better Regulation has introduced. This is a classic quality bill from the Minister. The Minister is providing the right balance between reducing red tape and protecting the good people of this State, as was evident from his activities relating to show bags at Easter and dangerous toys at Christmas. On a number of occasions I have joined the Minister at forums about senior fraud to help protect those sometimes vulnerable members of our community and alert them to fraud that can take place. The Minister has introduced legislation concerning ticket scalping and assisting consumers with gift cards. This is another classic piece of legislation that the good Minister has brought forward. I certainly commend it to the House.

The New South Wales real estate property service industry is regulated under the Property, Stock and Business Agents Act 2002. It concerns important things such as the buying and selling of one of the most expensive and most important assets in the lives of most families—their home. The Act governs the conduct of real estate agents.

The sale of a home—whether in the western suburbs of Sydney, on the Central Coast or in the blueberry capital of the electorate of the Assistant Speaker—is very important and it requires good contact with those involved in the industry.

The last statutory view of these laws was conducted in 2006 and the last major amendment was the introduction of enhanced underquoting laws in 2015. In commenting on the underquoting laws, the member for Epping mentioned that some of his constituents had gone to up to 10 auctions—they had undertaken due diligence, obtained building reports and pest inspections—and had made bids but, unfortunately, were unsuccessful. It was brought to the attention of the Minister that this was occurring and amendments were then made to the underquoting laws. That is an excellent example of this Government helping to protect the people of this State from unscrupulous members of certain professions who are involved in that type of activity. It is essential that the legislation regulating the industry balances the need for appropriate levels of consumer protection with the need to ensure the efficient and effective operation of the industry.

A reform package was set out in the Government's "Real Estate and Property Services Industry Reform" paper, released in November 2016. The Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017 is the first step of this Government's real estate reform package. The package will put consumers first by improving educational and professional standards across the industry, improve accountability and transparency, streamline the licensing framework and strengthen NSW Fair Trading's compliance and enforcement powers. I turn now to continuing professional development. The member for Epping also commented on the need for those in the legal profession to maintain continuing professional development. This also applies to teachers and doctors. Indeed, anyone involved in professional activities, particularly those the public put a high level of trust in, need to continually undergo professional development to maintain their knowledge. This will enable them to provide the most honest and ethical service they can for the people of this State.

The continuing professional development guidelines will be revised to introduce new requirements for each qualification level of the real estate industry. Licensees in charge and licence holders will have to undertake six hours of continuing professional development annually—three hours of compulsory topics and three hours of elective topics. This is an increase on the current requirement of 12 continuing professional development units, which takes four hours to complete. The compulsory topics will cover key matters such as law and compliance. They will be chosen by an industry-government advisory group and will be reviewed regularly. The compulsory

topics will be delivered by key industry associations, approved industry groups and government agencies. Licensees in charge will have to complete an extra three hours of continuing professional development dealing with business skills. Certificate holders will have to complete competency units from the relevant certificate IV training course. This will establish a clear career pathway for certificate holders to advance to a full licence. It will be a strict and robust system where a person can join the industry at a level of day-to-day contact and service with clients and work their way through appropriate educational programs, with continuing professional development, to become a full licence holder.

Today we heard the great news about first homebuyers entering the property market with stamp duty concessions. Those people have spent a lot of time saving their deposits and it is a matter of great interest to them that the transfer of those deposits into the hands of other people is done appropriately. The bill also touches on trust accounts and audits, with new provisions that will require all trust account audits to be lodged with NSW Fair Trading. To minimise the administrative burden, an online audit lodgement portal is being developed. Failure to account for money held in trust is a major source of consumer detriment and distress. Over recent years the Property Services Compensation Fund has paid out several million dollars. Agents will have to keep separate trust accounts for sales and rent. Agents will also have to clear rental trust accounts monthly. This will enhance accountability and transparency.

Apart from the amendment bill, the other key elements to be introduced by these amendments are the Property, Stock and Business Agents Regulation, which includes the Rules of Conduct; the Property, Stock and Business Agents qualifications Order; the guidelines for continuing professional development; and the supervision guidelines for licensees in charge. These aspects of the reform package will be the subject of consultation with industry associations and the community in coming months. The Real Estate Institute of New South Wales, Estate Agents Co-operative, Australian Livestock and Property Agents Association and Strata Community Australia have made significant contributions to the development of the reform package. The Government will continue to work closely with these key industry associations during the implementation of the reform package. I commend the bill to the House.

Mr AUSTIN EVANS (Murray) (18:01): I speak to the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017. This bill was prepared under the guidance of the Minister for Innovation and Better Regulation. It is a sensible bill that brings together a combination of regulation and education. Property rental affects the vast majority of people in our State, not only in the city, which has been the focus of most contributors to this debate, but also in rural areas. For those in the electorate of Murray, the purchase of a home is probably the biggest investment they will ever make. That may not be on the scale of city properties—and I encourage everyone struggling with that to move to the country—but it is still a significant investment. As I said, a large number of people who rent are also affected. The bill will help to streamline the current licensing arrangements and provide for the integration of the buyers agents' licence, the on-site residential property agents' licence and the business agents' licence into the real estate agents' licence. That does not mean that current licence holders will be inconvenienced. The bill contains grandfathering provisions so those currently doing that work will have a smooth transition.

The bill will streamline the qualifications people require to enter the industry and allow for a more functional system. A lot of consultation has been undertaken with industry associations and communities, including the Real Institute of New South Wales, Estate Agents Co-operative, Australian Livestock and Property Agents Association and Strata Community Australia. The huge number of licences held in this area include: 7,814 corporation licences, 21,793 real estate licensees, 2,788 stock and station agents, 1,847 strata managing agents, 2,252 business agents, 78 on-site residential property managers, 147 buyers agents, and 26,825 certificates of registration.

This enormous industry has positive aspects and the vast majority of people when dealing with this industry have a good experience. But there needs to be improvement in the way that agents manage their trust accounts to lessen any negative impact on clients. In the past, we have seen action taken against real estate agents, largely when money that is held in trust by agents has disappeared in one form or another. These reforms aim to reduce such action by introducing more regular accounting, particularly to owners of property, so that there is less likelihood for problems to develop, and when problems do develop the impact is lessened. Importantly, this bill requires the continuing professional development of agents so that the industry continues to improve. It enables Fair Trading to tailor that continuing professional development to meet the needs of and identify the gaps in the industry. This requirement to improve educational standards is a particularly positive aspect of these reforms.

The bill includes a prohibition on inducements. Under strata law, strata managers are already subject to disclosure requirements regarding commissions and training, as well as restrictions on gifts and benefits. Similar obligations will be imposed on other property industry licences. The restrictions are aimed at potential inducements that could give rise to conflicts of interest and lead agents to make decisions that are not in the best

interests of their clients. The restrictions will not apply to items such as gifts provided by employers to employees as a form of bonus or to presents from grateful clients.

With respect to trust accounts and audits, the new provisions will require that all trust account audits be lodged with NSW Fair Trading. When regulation is introduced into an industry, there is a risk that people will be tied up in red tape. To minimise the administrative burden, an online audit lodgement portal is being developed. Failure to account for money held in trust is a major source of consumer detriment. Over recent years, the Property Services Compensation Fund has paid out several million dollars. Agents will have to keep separate trust accounts for sales and for rent. They will also have to clear rental trust accounts monthly, which will enhance accountability and transparency. I commend the bill to the House.

Mr JONATHAN O'DEA (Davidson) (18:08): It is my privilege to speak in debate on the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017. We have heard from a number of speakers on the detailed provisions of the bill, so I do not intend to go into great detail. I commend the Minister for Innovation and Better Regulation for introducing this package. It is a valuable reform from a reforming government which has been much anticipated. Last year I was privileged to attend, on behalf of the Minister, a Real Estate Institute of New South Wales [REI NSW] awards dinner and to speak with industry members, who said that they were welcoming and looking forward to the regulation of their industry. Some industries and private sector organisations perhaps are not as welcoming or as embracing of sensible reform. I commend the real estate industry for working with the Minister and his department and relevant reformers within government to ensure proper consultation and a proper process. That can take some time, but I commend the industry on embracing the essence of what this bill delivers.

This reform package represents the outcome of a recent independent training review, in addition to those discussions with the industry that I have mentioned—not just the REI NSW but also others in the industry and relevant stakeholders—and an assessment of licensing using the Independent Pricing and Regulatory Tribunal framework. The purpose of the bill, which I hope will pass with the welcome support of those opposite, is to improve educational standards and professional measures in the real estate industry and to introduce measures relating to accountability, governance and disclosure requirements that, most importantly, put consumers first. The industry, the Government, and the public interest are all served when we put consumers first. This Government aims to ensure that the people of New South Wales are properly protected and are able to rely on a real estate industry and a property industry that have in place proper controls and training and appropriate measures that help to create quality outcomes.

We all rely on the real estate industry at different times. We all live in homes. Some of us are fortunate to own those homes, but at some stage we will sell them. Some of us rent and some of us have other arrangements. The real estate industry permeates society and is a very important industry for everyone. It is also important in generating employment and economic activity and in terms of the efficient disposal of valuable resources within our society. These reforms are intended to ensure the licensing of real estate agents, buyers' agents, business agents, strata managing agents, on-site residential property managers and stock and station agents in a sensible way. As has been noted by previous speakers, the Act regulates the operation of trust accounts, prohibits underquoting, sets out rules of conduct, and provides for a fund to compensate consumers when a small minority of agents misappropriate trust money from time to time. With this bill, the Government is working with the real estate industry, which also is interested in protecting consumers where there is an exposure.

I pay tribute to the real estate agents and property professionals who operate within my electorate. There are a large number of real estate agents in my electorate which support all sorts of community activities, such as fun runs, as well as schools and sporting clubs. Real estate agents support a wide range of valuable community grassroots initiatives. That is indicative of the ethical, community-based and public interest-based approach taken by the vast majority of people in the industry.

I am sure I speak on behalf of my colleagues when I pass on our appreciation to the industry for everything it does to make our community a better place. In passing this bill we are supporting the industry. I again commend the Minister for an excellent consultative process and for taking an appropriately disciplined approach to ensure that all stakeholders are on board. I believe that is reflected in the universal support for the bill in this Chamber. I have been delighted to say a few words in support of the Government's excellent initiative in passing this legislation today.

Mr CHRIS PATTERSON (Camden) (18:14): I have listened intently to debate on the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017 and I have 10 minutes in which to make my contribution. I acknowledge that those members who have spoken before me have covered very eloquently the reason we are debating this bill today. I acknowledge that the Minister for Innovation and Better Regulation is in the House. As the member for Davidson said, the Minister and his staff have put a lot of thought into this

bill. I spoke to the Minister this morning in the party room and he said, "Chris, people think I do all the work in the office, but I just want you to know that my staff and department do a lot of work".

I want all those people who have worked on this bill to know that the Minister pulled me aside today and said what hard workers they all are. I thank those in the Minister's office and in the department for bringing such quality legislation to the House; it really is appreciated. To the Minister I say well done; it is a great bill and something that the grandkids are going to be very proud of. The member for Davidson made a point about real estate agents. I too have some excellent real estate agents in my electorate.

TEMPORARY SPEAKER (Mr Lee Evans): Name them.

Mr CHRIS PATTERSON: I could. They know what they do for our local community. They always seem to be at charity events and sponsoring sporting and community groups. I am sure they are very successful within our local community but they are a group that gives back to my local community. As did the member for Davidson, I acknowledge that industry that gives so much back to my community. The bill has been covered adequately by other speakers in the debate, and I am sure the Minister will sum it up in his reply. I commend the bill to the House.

Mr MATT KEAN (Hornsby—Minister for Innovation and Better Regulation) (18:20): In reply: I take this opportunity to thank all those members who have made a contribution to this debate: the shadow Minister for Innovation and Better Regulation and member for Swansea, the member for Wollondilly, the member for Newtown, the member for Epping, the member for Drummoyne, the member for Manly, the member for Myall Lakes, the member for Seven Hills, the member for Murray, the member for Davidson and the member for Camden. I thank those members for their interest in this important area. Obviously they all have real estate agents in their electorates and are committed to seeing those agents meet the highest professional standards. I particularly acknowledge the passion of the member for Newtown and her commitment to improving the rights of renters.

As members have heard, the purpose of the Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017 is to introduce measures to improve educational and professional standards across the industry; improve accountability and transparency; streamline the licensing framework; and strengthen Fair Trading's compliance and enforcement powers. Every year Fair Trading receives a very high volume of complaints from consumers about their dealings with the real estate and property industry. In the past financial year the Property Services Compensation Fund paid out more than \$4 million. That does not include the repayment of other significant amounts to consumers after Fair Trading appointed managers to several real estate businesses.

Fair Trading data shows there were 4,077 complaints about real estate and property matters in the 2016-17 financial year, accounting for 9 per cent of all complaints during the period. Concerns have been raised by both the industry and the community regarding these problems. There is a clear need for government action, and this reform package will help address the situation. The proposed changes reflect the outcome of the recent independent review of industry training, lengthy discussions with key stakeholders, an assessment of licensing using the Independent Pricing and Regulatory Tribunal [IPART] framework, and identification of key matters by Fair Trading's real estate and property division. The primary aim of the package is to improve industry professionalism and skills, and to deliver better consumer outcomes.

I will comment briefly on issues raised during the debate. The member for Swansea raised a concern about the licence integration process for business agents. Under the reforms, the buyer's agent licence, onsite residential property agent's licence, and the business agent's licence are being rolled into the real estate agent's licence. These licences were combined following an assessment of the current licensing arrangements using the IPART framework, which found that a revised licensing system could set appropriate industry standards and prevent consumer detriment. This follows other jurisdictions, such as Victoria, where business agents hold real estate agents' licences. As a holder of a real estate agent's licence, business agents would not be prevented from advertising themselves as business agents or advertising that they are licensed to undertake business agents' activities. Industry and community education will also accompany the new framework when it is introduced, to ensure that all the relevant licence holders are fully informed of the changes.

The member for Swansea raised a concern on behalf of onsite residential property managers at small strata complexes that, in particular, the new licensing framework and higher qualification requirements will reduce new entrants to their sector of the industry and that it will impact on the resale value of their management rights and ability to sell them when they retire. Those licensees generally manage small strata schemes of 20 lots or less. The Government is aware that the circumstances for onsite residential property managers who manage small strata buildings for holiday lettings are different from those who manage large strata buildings in urban areas. As large strata buildings involve significant management responsibilities, it is considered appropriate to require a higher level of qualifications to undertake this role. However, the circumstances of licensees managing small strata

buildings solely for holiday letting are under close consideration, and these licensees have spoken directly to senior departmental staff.

The removal of the requirement for onsite residential property managers to own a unit in the strata building they manage will also reduce barriers to entry that are currently in place, resulting in reduced costs and greater flexibility in business models. In addition, the real estate and property laws already provide for regulations to prescribe appropriate exemptions. The New South Wales Government will provide an exemption to onsite residential property managers at small strata complexes. We are currently working through the scope of such an exemption. This approach will allow us to develop a simple and specific means to deal with this situation, following consultation with all the affected parties, and to support these small businesses without impacting untowardly on the reform package.

The member for Swansea also raised the issue of continuing professional development [CPD]. Under existing provisions in the Property, Stock and Business Agents Act 2002, conditions can be attached to certificates or licences regarding professional development. This provides for agents to be obligated to undertake CPD, and guidelines clearly set out how agents can meet their CPD obligations. CPD is part of the operational and administrative details of the regulatory framework. It is not appropriate to include such operational and administrative details in primary legislation or in the regulation. The primary legislation holds the head of power to impose such requirements, and the details of such matters are dealt with appropriately in subordinate legislation or, as in the case with CPD, by departmental guidelines.

Parliament approved the arrangement for CPD when the Property, Stock and Business Agents Act 2002 was approved originally. There is no demonstrated need to change the current arrangements.

The existing arrangements provide flexibility. They allow Fair Trading to move quickly to improve the guidelines over time. Such changes must occur quickly to adapt to changes in the industry caused by developments—for example, new technologies. Licensing reforms have been discussed already. Currently the licensing regime has six licence categories plus an incorporation licence. An assessment of the current licensing framework using the Independent Pricing and Regulatory Tribunal [IPART] framework concluded that while there is a need for licensing to address the potential for consumer detriment and set appropriate industry standards, the design of the licensing system could be revised.

The qualifications for the licences to be merged already have some overlap with the real estate licence qualifications. In some cases they are, in effect, a restricted version of a real estate agent's licence. Holders of licences to be merged will be grandfathered into the real estate agent's licence with appropriate restrictions so that their business operations will not be affected. Appropriate consumer protections will be maintained. The required competency units from Certificate IV in Property Services that must be completed to obtain a real estate agent's licence under the new framework will be revised to ensure that they reflect the wider functions that these licence holders may undertake.

The Government is also creating a new licence class for licensees in charge with high qualifications. Although businesses must already have a licensee in charge to supervise the business operations, this role currently does not require higher qualifications than a standard agent's licence. Given the significant level of responsibility of licensees in charge it is appropriate to require a higher level of training and qualification. These proposals fit with the Government's commitment to better regulation and appropriate licensing through the IPART framework.

As I mentioned earlier, there will be a brand new system for continuing professional development [CPD] to establish a professional training pathway. Annual CPD for certificate holders will be competency units from the certificate IV qualification. In combination with the seven competency units required to enter the industry, this will ensure that certificate holders will complete enough competency units within three to four years to obtain a certificate IV qualification. This will mean that they will increase their knowledge while gaining on-the-job skills and experience, and will obtain all the qualifications to be eligible to apply for a full licence.

By establishing a clear training and career pathway this aims to reduce the significant churn rate of new industry entrants who never progress beyond a certificate of registration and do not stay long in the industry. For full licence holders, instead of the current 12 CPD units that take four hours to complete, they will be required to complete six hours of CPD. Half of the CPD hours will be compulsory topics covering key legislative and compliance issues. The compulsory topics will be identified by an industry and government advisory panel, and will be revised regularly. The other three hours will be made up of elective CPD topics chosen by licensees.

Licensees in charge will also have to undertake six hours plus an additional three hours of CPD focusing on business skills. Agents' failure to account for money held in trust is a major risk area for the industry and a major source of consumer detriment. During 2017 the Property Services Compensation Fund paid out almost \$640,000 plus other significant consumer repayments from businesses where Fair Trading was appointed the

manager. Licensees are already required to have the trust accounts audited, but only qualified audits need to be lodged. However, the data obtained from unqualified audits is also very useful in identifying risk to trust money and may facilitate more proactive compliance action. To minimise any extra administrative burden Fair Trading is developing an online portal, which will be in operation before the new audit requirements are introduced.

The new regulatory framework will provide better compliance outcomes by standardising auditing requirements and automating large parts of the administrative process. This will allow Fair Trading to dedicate more time to investigate major and minor issues. The new online portal will also help standardise the audit requirements for trust accounts in the real estate sector. The online portal will also allow Fair Trading to match the audit results of each known bank account to ensure that there is an audit for each account. Additionally, major and minor issues flagged by auditors will be posted automatically into a dashboard that can be accessed by investigators. Altogether this will make a significant improvement to compliance activity.

I will conclude where I began. The Property, Stock and Business Agents Amendment (Property Industry Reform) Bill 2017 is all about improving educational professional standards across the industry, improving accountability and transparency for real estate agents, streamlining the licensing framework, and strengthening Fair Trading's compliance and enforcement powers. A lot of hard work goes on behind the scenes to bring legislation into the House and to introduce reforms to the community that will actually improve outcomes for consumers across the State. Fair Trading and I, as the Minister, are determined to put the consumers of New South Wales first. To that end I am supported by an outstanding team of professionals, particularly in my department. I acknowledge particularly Alanna Linn, Katerina Pavlidis and the indefatigable and one of the nicest people one will ever meet, Warren McAllister. I thank them for what they do. I thank Warren for making me look good—I know that is a very difficult job. I thank them all for their public service; it is greatly appreciated.

I mention also Nancy Gangi and Ernie Chan from the department. I am fortunate to be served by some extremely dedicated staff, none more so than my policy adviser, Julie Stewart, who has overseen this bill. She has done a great job working with Richard Hodge, who is always available on the other end of the phone for any members of Parliament and organising what needs to be done. They are led by the incredibly capable Ben Coles, supported by my media team, Brooke Eggleton and Lisa Mullins. Overall it is a team effort that gets these things done. It would not have been possible for me to introduce these reforms to improve outcomes for New South Wales consumers and lift standards for real estate agents across the State without the help of this wonderfully supportive team. I commend the bill to the House.

TEMPORARY SPEAKER (Mr Lee Evans): The question is that this bill be now read a second time.

Motion agreed to.

Third Reading

Mr MATT KEAN: I move:

That this bill be now read a third time.

Motion agreed to.