

NSW Greens Submission to the Real Estate and Property Industry Reform Paper



Prepared by the Office of Jenny Leong, Member for Newtown
and Housing Spokesperson for the NSW Greens

December 2016

NSW Fair Trading
PO Box 972
Parramatta NSW 2124

To whom it may concern

Re: NSW Greens Submission to the Real Estate and Property Industry Reform Paper

Thank you for the opportunity to make a submission to the proposed reforms of the Real Estate and Property Industry. A significant number of NSW residents come in contact with the industry, either as a property purchaser or a renter. These interactions involve buying or renting a place that will be their home, one of the foundations of our lives. It is important that we ensure that those working in the real estate and property industry act professionally in those interactions, that they understand their obligations and that the rights of the renters and purchasers are protected.

Renters, in particular, can face particular challenges during their interactions with real estate industry staff. As agents are acting for the landlord, the rights of renters can be overlooked. Tenants have long-lasting relationships with agents, which can be stressful if the agent doesn't act appropriately. It is particularly important that agents are fully aware of the rights of renters and that renters have genuine recourse in situations where their rights are abused.

Below are our responses to some of the issues raised in the Reform Paper.

- **Industry Standards and Coregulation**

The reforms outlined in this Reform Paper aim to “rais[e] the standards of education and conduct in the industry to a level that will enable provision for some coregulation in the future.”

The NSW Greens welcome attempts to improve the standards of education and conduct in the industry. Better education would hopefully lead to improved conduct, as those working in the industry would have a more thorough understanding of their responsibilities and the rights of renters or property purchasers that they interact with. However improving education alone is unlikely to be the answer.

Fair Trading has recently begun publishing a monthly Complaints Register, where businesses subject to ten or more complaints to NSW Fair Trading in a calendar month are listed. Through the four months it has been in operation, real estate agents have been well represented in the list, with up to seven different companies listed in a single month.

As noted in the Reform Paper, real estate agents are the subject of large numbers of complaints to NSW Fair Trading. In 2015 over 6,000 complaints were made. While we welcome steps taken by Fair Trading to improve complaints handling and to make the

number of complaints made more transparent, it is clear that real action needs to be taken to address the causes of these complaints.

Any move towards relaxing regulation of the industry while complaints are on-going would seem imprudent.

One of the proposals put forward in the Reform Paper is to move towards licensing only the licensee of a business. The licensee in charge would decide the appropriate skills and qualifications for people who work in the business, and be responsible for their conduct.

This proposal is in conflict with the emphasis on qualifications and continuing professional development elsewhere in the paper.

The Reform Paper refers to the findings of an independent review of real estate and property industry training. That review found that although the Property, Stock and Business Agents Act requires licensees in charge to properly supervise staff, in practice that supervision is minimal or non-existent. The independent panel found that the unsupervised activities of staff holding certificate qualifications pose a risk to consumers and recommended additional educational requirements for certificate holders.

The loosening of regulation around licensing and educational standards has a very real risk of weakening the professional standards of the industry, creating even more challenges for tenants and property buyers.

- **Property Services Ombudsman**

The Reform Paper raises the idea of establishing an ombudsman for the property services industry. Consideration of this idea should not depend on whether or not a co-regulatory industry framework is pursued. The NSW Greens support the establishment of a property services ombudsman as the property services industry impacts so widely on NSW residents, and given the history of complaints about those working in the industry, there is no reason why the idea should not be properly considered now.

If an ombudsman were to be established, they would need to be independent and properly resourced. They would need to be empowered to make findings and require action that is enforceable, and they would need to have the ability to refer matters to parliament.

- **Protections for Renters**

Renters can face particular challenges in their dealings with the real estate and property industry.

As agents are acting in the interest of property owners, the interests of renters can be overlooked. Tenants are forced into on-going relationships with agents, and while the

majority of agents may act professionally, there is limited recourse for renters who are not treated respectfully, fairly or appropriately by their managing agent.

While the Residential Tenancies Act offers some protections for renters, our current laws make it difficult for renters to enforce their rights in some circumstances. 'No grounds' terminations can be used to remove 'problem' tenants, or as retaliation when tenants enforce their rights. A number of tenants who completed an online survey at my website reported that they had received a 'no grounds' termination after following up on maintenance requests. More detail on this can be found in [the NSW Greens submission](#) to the NSW Residential Tenancies Act 2010 discussion paper.

The Real Estate and Property Industry Reform Paper notes that the vast majority of complaints made about real estate agents to NSW Fair Trading are in relation to residential tenancy issues. During 2015 there were 4211 complaints about real estate agents relating to residential tenancy issues – more than 80 each week. The high level of complaints indicates that many tenants feel that they have been treated improperly or unfairly. In comparison, around 10 complaints were made each week in regards to property management services.

One issue raised with us is the intense workload facing many property managers. Many real estate agencies are structured in such a way that property managers are the least experienced agents in the team. They are often tasked with managing a large portfolio and they are required to meet the demands of the owners of the properties they manage. Inappropriate workloads can lead to poor communication with tenants and delays on essential maintenance requests. Limiting the size of portfolios that can be managed by a single property manager may have an impact on the experience of both tenants and landlords, as well as on the number of complaints made in relation to real estate agents.

Reforms to the real estate and property services industry must protect and improve the experience of everyone who comes into contact with the industry. We must recognise that access to safe and secure housing is a basic human right, and note the impact that the industry has on NSW residents.

Yours sincerely

A handwritten signature in black ink that reads "Jenny Leong". The signature is written in a cursive, flowing style.

Jenny Leong MP
NSW Greens spokesperson on Housing