NSW Fair Trading

Consultation Paper

Draft Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Regulation 2026, provider conditions and statement of information forms

July 2026

Contents

1. Purpose

The Government introduced the *Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Act 2026* (the Amendment Act) to NSW Parliament earlier this year and it passed Parliament on 23 June 2026.

The Amendment Act reforms property agent laws in NSW to target underquoting by real estate agents, enhance professional standards of property agents and training providers, and give NSW Fair Trading (Fair Trading) greater enforcement powers to deter property agent misconduct.

Some of the changes strengthening Fair Trading's enforcement powers started on 29 June 2026. The other changes relating to underquoting and providers of continuing professional development are proposed to start on 16 November 2026. This is because the supporting regulation and forms need to be finalised and industry need time to prepare.

The Government is now consulting on the supporting draft Regulation, the draft statement of information forms and Fair Trading's conditions on providers of continuing professional development.

Feedback

We are seeking your feedback on:

- the draft Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Regulation 2026 that will support the underquoting and other reforms in the Amendment Act (attached),
- the draft statement of information forms (attached), and
- Fair Trading's conditions on approved providers of continuing professional development (section 3.2).

This consultation paper and the accompanying documents are confidential and have been provided only to key stakeholders for feedback. Please do not distribute further.

Please provide feedback to PSAConsultation@customerservice.nsw.gov.au by **5pm 13 August 2026.**

Fair Trading welcomes all feedback, which will be carefully considered.

2. Draft Regulation provisions

2.1 Summary of draft Regulation provisions

The table below summarises the provisions in the draft Regulation by topic. However, the provisions in the draft Regulation about providers of continuing professional development are summarised in section 3 of this paper.

Regulation reference	Description	Purpose / Context
Commencement		
Commencement	The Regulation is proposed to start on 16 November 2026.	The remaining reforms in the Amendment Act (underquoting and providers of continuing professional development reforms) and the supporting Regulation are proposed to start on 16 November 2026. Fair Trading will provide guidance and undertake a campaign to communicate the reforms to industry to help them prepare for the changes ahead of November.
Agency agreements		
Section 8A Agency agreement records	An agency agreement must be kept in electronic form and for at least three years after the date it was signed by all parties to the agreement.	The purpose is to make it easier for Fair Trading to access and review the estimated selling price/s in agency agreements for compliance and enforcement purposes, particularly if a standard form agency agreement with a standard format for recording the estimated selling price/s is approved by the Fair Trading Commissioner in the future (under section 55(1B) of the Amendment Act).
Comparable sales • The estimated selling price (ESP) for a residential property means the price or price range specified in the agency agreement as the agent's estimate of the likely selling price of the property. • The Amendment Act requires agents to take into account the prices for which comparable properties have been sold in accordance with the regulation, when determining or revising their ESP. • It should be noted that agents will also continue to be required to ensure their ESP or revised ESP is a reasonable estimate. This has not changed under the Amendment Act.		

Regulation reference	Description	Purpose / Context
This means agents may consider other information, in addition to comparable sales, when determining or revising the ESP.		
Section 12A Definitions	This section includes definitions of terms used in the draft Regulation, including comparable properties, non-metropolitan area and metropolitan area. The definition of a metropolitan area lists all the local government areas that are considered metropolitan. This includes Blue Mountains, Central Coast, City of Newcastle and City of Wollongong local government areas.	The local government areas (LGAs) that are considered metropolitan are LGAs considered as part of Greater Sydney. In addition, the Central Coast, City of Wollongong and City of Newcastle LGAs have been added as metropolitan areas because they are large urban centres. Whether a property is in a metropolitan area or non-metropolitan area will be relevant when identifying comparable sales.
Section 12C Deciding comparable properties	The agent must identify the three most comparable sales to the property for sale in accordance with section 12C. Firstly, agents must identify properties within a defined radius and sold date of the property for sale. If the property for sale is in a metropolitan area, the agent must first identify the properties within a 2 km radius of the property for sale and sold within the last 6 months. If the property for sale is in a non-metropolitan area, the agent must first identify the properties within a 5 km radius of the property for sale and sold within the last 18 months. From this list, the agent must identify the three most comparable properties having regard to a list of factors including the type of property, location of the property, condition of the property, size, and number of bedrooms. If there are two comparable properties that are equally, or almost equally, comparable to the property for sale, the agent must consider the property with the most recent sale date as the more comparable property.	The agent must take into account the three most comparable properties when determining or revising the ESP. The radius, sold date and factors that must be considered are similar to factors used in Victoria.
Section 12D Less than three comparable properties	If an agent reasonably believes there are only 1 or 2 comparable properties after considering the list of factors at section 12C(3), the agent must take those 1 or 2	If the agent reasonably believes there are only one or two comparable properties, they must

Regulation reference	Description	Purpose / Context
	comparable properties into account in determining or revising their ESP.	be considered by the agent when determining or revising the ESP. Agents must continue to ensure their ESP or revised ESP is a reasonable estimate. This has not changed under the Amendment Act. This means agents may consider other information, in addition to comparable sales, when determining or revising the ESP.
Section 12E No comparable properties	If an agent reasonably believes there are no comparable properties after considering the list of factors at section 12C(3), there are no comparable properties that the agent is required to take into account.	Agents must continue to ensure their ESP or revised ESP is a reasonable estimate. This has not changed under the Amendment Act. This means agents may consider other information, in addition to comparable sales, when determining or revising the ESP.
Section 12H Agents must use all information available about comparable sales	Agents must use all information they have about comparable sales when determining or revising the ESP.	Agents must use all data and information available about comparable sales. Agents cannot rely on confidentiality agreements that restrict agents from using or disclosing information about the property sale.
Records • Section 72B(1)(b) in the Amendment Act allows the regulation to prescribe records that agents must keep in relation to their determination or revision of an ESP.		

Section 12F
 	
Records about the ESP
	Some of the key records that agents must keep about the ESP:
	
	• a record of how the agent determined the ESP including:
	    ○ the process at section 12C to determine the comparable properties
	    ○ the address and sale price of the comparable properties, and
	    ○ information used by the agent and the source of that information (for example, search results of comparable properties, other information used to determine the ESP
		Currently, there are no clear requirements for agents to keep detailed records of the information or rationale that informs their ESP or revised ESP.
		
		This lack of documentation makes it difficult to verify whether the ESP is justified, and it limits Fair Trading's ability to identify and address breaches of underquoting laws.
		
		Comprehensive records are needed to support transparency, enable effective enforcement, and protect buyers from misleading pricing practices.

Regulation reference	Description	Purpose / Context

	other than comparable properties),
	• the notice and evidence given to the seller,
	• if there were less than three or zero comparable properties:
	  ○ results of searches of comparable properties, and
	  ○ the reasons for the agent's belief that there are less than three or zero comparable properties (for example, any distinguishing features of the sale property on which the agent's belief is based),
	• if written offers to purchase the property for sale were given to the seller:
	  ○ the amount offered
	  ○ any conditions with the amount offered, and
	  ○ reasons for rejection of the offer.
	A maximum court penalty of $2,200 (individual) and $4,400 (corporation).	

Section 12G
Records about revisions to the ESP
	In addition to records similar to those listed above about the revised ESP, the agent must keep records about:
	• if the agent uses a comparable property to determine the revised ESP and that property was not used to determine the previous ESP – reasons the agent did not use the comparable property to determine the previous ESP,
	• if the estimated selling price is revised in response to market feedback:
	  ○ the name of the person who gave the feedback,
	  ○ the date the feedback was given,
	  ○ a description of the feedback,
	  ○ the reasons for the feedback being used by the agent, and
		See above.

<table>
<tr><th>Regulation reference</th><th>Description</th><th>Purpose / Context</th></tr>
<tr><td></td><td>◦ a description of how the feedback was used by the agent (for example, the weight given to the feedback).

A maximum court penalty of $2,200 (individual) and $4,400 (corporation).</td><td></td></tr>
<tr><td colspan="3">Statement of Information (SOI)
• The statement of information agents must prepare under section 72C of the Amendment Act will need to be in the approved form published by Fair Trading (see attached forms) and include any other information prescribed by the regulation.
• Agents will need to revise the statement of information in the circumstances, and within any time periods, prescribed by the regulation (section 72C(5) Amendment Act).</td></tr>
<tr><td>Section 12B

Median suburb price</td><td>This section defines suburb median sold price as the median price for which similar residential properties located in the same suburb have sold during the identified sales period.

Properties are similar to the property for sale if they have the same type of dwelling as the property for sale or the property for sale is vacant land with approval for that type of dwelling, or they are vacant land with no approval for a dwelling like the property for sale (definition of ‘similar property’ in section 12A).

The similar properties must have been sold over a period of no less than 3 months and no more than 12 months. In addition, that sales period must not have ended more than 4 months before the statement of information is prepared.</td><td>The suburb median sold price is information that agents must include on the statement of information (see section 12I).

The section aims to set parameters for the median price that is used by requiring that it be based on sales:
• of a similar type of property in the same suburb as the property for sale, and
• over a period of 3 months to 12 months, with that period ending no more than 4 months before the median price is used.</td></tr>
<tr><td>Section 12I

Information that must be included in the SOI</td><td>This section lists the information that must be included in the SOI form.

See the attached forms for information that must be included in the forms.</td><td></td></tr>
<tr><td>Section 12J

Revising the SOI</td><td>The statement of information must be revised if there is a change to the comparable properties the agent considers to be the three most comparable properties.</td><td></td></tr>
</table>

Regulation reference	Description	Purpose / Context
Local Court jurisdiction increase		
Section 61B	The regulation will increase the current monetary penalty limit for offence proceedings in the Local Court, under section 215(3) of the *Property and Stock Agents Act 2002* (the Act), to 1000 penalty units ($110,000).	The increase is commensurate with the increases to penalties in the Amendment Act.
Informing vendor of offers		
Schedule 2, section 5(1A) Informing vendor of offers	Clarification to the current rule of conduct to provide that, if an offer to purchase requires the agent to revise the ESP, the agent must inform the vendor of that offer even if the vendor has given the agent written instructions to not be informed of offers.	Section 5(1) of the *Property and Stock Agents Regulation 2022* currently provides that an agent for a vendor must inform the vendor of all offers to purchase as soon as practicable after receiving each offer up until exchange of contracts unless the vendor has provided written instructions to the contrary. The draft Regulation makes it clear that, notwithstanding that provision, if an offer to purchase requires the agent to revise the ESP under section 72A of the Act, the agent must inform the vendor of that offer (that is, even if the vendor has given the agent written instructions to not be informed of offers).
Penalty infringement notice offences and amounts • Penalty infringement notices, also known as fines, that Fair Trading may issue for non-compliance.		
Schedule 13 Penalty notice offence amounts	The draft Regulation will include changes to the penalty infringement notice offences and amounts in Schedule 13 of the current Regulation, including new penalty notice offences and increases to some penalty notice amounts. Most of the proposed increases to the penalty notice offence amounts reflect increased penalties in the Amendment Act. Amounts are generally 10 – 20% of the maximum court penalty. Some other existing penalty notice offence amounts are proposed to be increased as they are considered too low, for example a penalty notice for	Penalty infringement notices are an important tool available to Fair Trading in responding to misconduct under the Act and the Regulation. The penalty notice amounts should be set at a level where they are not just seen as 'the cost of doing business' and are a sufficient deterrent to misconduct. Fair Trading takes a proportionate response to enforcement to match the circumstances of the case. More serious or persistent offences or industry wide levels

Regulation reference	Description	Purpose / Context
	breaching rules of conduct under sec 37 of the Act, taking into account the nature of the offence and their likely effect as a deterrent to misconduct. In some cases, an amount is proposed to be added for an individual or corporation where it is not currently provided in Schedule 13, such as an amount for non-compliance with section 13 of the Act about transferring or lending licences or certificates.	of non-compliance warrant more serious enforcement action.

2.2 No exemptions proposed under the draft Regulation

The Amendment Act allows the regulation to provide exemptions from:

- the requirement to take into account comparable properties (section 72A(7))
- the requirement to prepare a statement of information (section 72C(7)), and
- the requirement to include a price on advertisements (section 72D(3)).

The Amendment Act already provides an exemption from including a price on a ‘for sale sign’ that is placed on or adjacent to the property for sale (section 72D(3)(a)).

The draft Regulation does not propose any exemptions.

3. Draft Regulation provisions (providers of continuing professional development)

3.1 Summary of draft Regulation provisions

The table below summarises the provisions in the draft Regulation about providers of continuing professional development (CPD) by topic. These provisions are made under section 223A of the Amendment Act.

Regulation reference	Description	Purpose / Context
Applying to be a provider of CPD • A provider of CPD currently approved by Fair Trading will continue to be authorised to deliver CPD until their approval expires or is revoked (Schedule 1 Savings, transitional and other provisions, Amendment Act). • When the approval ends, the provider must apply to be an approved provider under the new legislative framework.		
Section 52AF Applications	A person must seek approval to deliver CPD. The application must be in a form approved by Fair Trading, include	A person must apply to be an approved provider after 16 November 2026 when their existing Fair Trading

Regulation reference	Description	Purpose / Context
	information that Fair Trading reasonably requires to assess the application, and be accompanied by a fee. The proposed application fee is $699. Fair Trading may request additional information if reasonably required to consider an application.	approval ends or they are a new provider. Applying to be a provider ensures that appropriate persons are being approved to deliver CPD to agents. Fair Trading is proposing to introduce an application fee to recover the costs of monitoring approved provider compliance with the CPD framework. This will support high quality compliance activities and help ensure that the CPD framework is meeting industry expectations.
Decision on application and eligibility criteria		
Section 52AG Decision on application	Fair Trading may approve an application or refuse the application. Fair Trading may grant an approval with or without conditions, in addition to the standard conditions set out in Schedule 12A of the draft Regulation (see below). Fair Trading may refuse the application for any reason, including if it is not satisfied the applicant has satisfactory policies and procedures for delivering education and training courses, or it is not satisfied the applicant is an eligible person. Fair Trading will provide reasons if the application is refused.	These provisions support transparent and accountable decision-making by requiring applicants to be notified of the outcome of their application and, where refused the reasons for refusal. They also ensure Fair Trading can refuse applications where the applicant does not demonstrate the capability, governance, policies and procedures or eligibility required to deliver high quality CPD in accordance with the regulatory framework.
Sections 52AB – 52AE Eligible person	These sections include definitions of terms relevant to determining whether an applicant is an eligible person. An applicant is an eligible person if the applicant, and each close associate of the applicant, are fit and proper, are not disqualified under section 16 of the Act or their registration with Australian Skills Quality Authority (ASQA) is not suspended, cancelled or disqualified. The applicant must also be appropriately qualified or experienced. That is, they must be a registered training organisation with ASQA, or have experience in delivering training to agents, a business relating to agents or	The definition of eligible person ensures that approved providers are fit and proper and qualified to deliver industry knowledge to agents. This supports professional standards in the property sector.

Regulation reference	Description	Purpose / Context
	providing legal or financial services to agents. A close associate is defined as a director, company secretary, manager, another executive position or a person with power and influence in the business. TAFE NSW is deemed to be an eligible person.	
Approval period		
Section 52AI Approval period	The approval period will be specified by Fair Trading in the approval, and will not be for more than 3 years.	Limiting approval to a maximum period ensures providers are periodically reassessed to confirm they remain suitable, compliant and capable of delivering high quality CPD, supporting ongoing quality assurance.
Revoking approval		
Section 52AJ Revocation	The draft Regulation allows Fair Trading to, at any time, revoke an approval by giving notice in writing to the approved provider if: — the approved provider has failed to meet a condition of their approval, or — the approved provider is no longer an eligible person, or — the approved provider requests the approval be revoked in writing. Revocation of the approval takes effect on the data specified in the revocation notice if specified or the date the notice is given to the approved provider.	These provisions ensure Fair Trading can act if an approved provider is no longer suitable to deliver CPD or where the provider requests revocation.
Internal review		
Section 52AK Internal review	These provisions set out the process for internal review of the Secretary's decision to refuse an application under section 52AG, or a decision to revoke an approval under section 52AJ.	These provisions ensure procedural fairness regarding refused applications and revoked approval. There are no review rights to the Tribunal.

Regulation reference	Description	Purpose / Context
Waiver, reduction or refund of application fees		
Section 62 Fee waiver, reduction or refund	This amends the existing section to allow Fair Trading to waive, reduce, postpone or refund provider application fees in special circumstances, if the approval was revoked by a provider, if the applicant is deceased, if Fair Trading refused the application, or if an application is withdrawn.	These provisions provide the Secretary with discretion to waive, reduce, postpone or refund application fees where it is fair and appropriate to do so. This supports fair and proportionate fee recovery while allowing Fair Trading to respond to individual circumstances.
Conditions on approval • The conditions apply to providers who apply, and are approved, to be a provider of CPD under the new legislative framework.		
Section 52AH Approval conditions	An approval granted to an approved provider is subject to the standard conditions in Schedule 12A and any additional conditions imposed by Fair Trading under section 52AG(2).	All new approved providers, approved under the new legislative framework, must meet the standard conditions of approval as listed in Schedule 12A and any additional conditions imposed by Fair Trading.
Schedule 12A Standard conditions	The draft Regulation lists standard conditions that apply to approved providers. **Notification form –** providers must submit a form annually about the courses the provider will deliver for the CPD year. **Contractors** – approved providers may enter into a contractual arrangement with another approved provider to assist in the delivery of education and training courses. **Notification of completion**– provisions relating to providing a completion notice to a participant of an education or training course, including confirming the participant attended the education or training course and the assessment results. **Notification of events to Fair Trading** – Provides a list of events where the approved provider must notify Fair Trading in writing and as soon as reasonably practicable if the event occurs. **Requirements for policies to prevent fraud and plagiarism** – approved providers must have policies to	The conditions of approval are similar to the conditions that currently apply to existing providers. The notification form allows Fair Trading to have oversight of what courses are being delivered each CPD year as well as publish this information on the NSW.GOV.AU website so that licence holders are able to find information on how they can meet their CPD obligations. The condition of approval regarding contractors supports flexible course delivery while ensuring CPD is delivered only by approved providers. This helps maintain training quality, accountability and regulatory oversight where providers use contractors to assist with delivery. Participants should be given a completion notice so that they are able to keep a record of meeting their licence conditions. This helps licence holders demonstrate compliance with their CPD obligations and supports accurate record keeping by approved providers. Notification of certain events to Fair Trading ensures Fair Trading is

Regulation reference	Description	Purpose / Context
	prevent participants from plagiarism and fraud when completing education or training courses, including assessments. **Requirement to make and keep register –** provisions regarding a register of individuals who completed an education or training course. The register must be given to Fair Trading monthly, within two weeks of the end of the month. **Requirement to make and keep records of transactions** – provisions regarding the requirement to make and keep a record containing particulars of all transactions by, or with, the approved provider in connection with the approved provider's business as an approved provider. Records must be kept for four years. **Requirement for trainers to have qualifications and experience** – provisions regarding the required qualifications and experience for persons employed to provide CPD training.	promptly informed of events that may affect an approved provider's suitability, compliance status or ability to deliver CPD. This allows Fair Trading to assess risks and respond where necessary to protect the integrity of the CPD framework. Fraud and plagiarism policies ensure providers have clear controls to protect the integrity of the CPD assessments, including preventing participants from submitting work that is not their own or having another person complete training or an assessment on their behalf. These policies support licence holder compliance with their CPD obligations. The provision to keep a register of individuals who completed an education or training course enables Fair Trading to accurately verify whether licence holders have completed the CPD required as a condition of their licence. Keeping a record of all transactions by, or with, the approved provider in connection with the approved provider's business supports transparency and accountability in the approved provider's business activities and enables Fair Trading to review financial and operational records connected with CPD delivery where compliance concerns arise. Requiring trainers to have relevant qualifications and experience ensures CPD is delivered by people with appropriate training capability, subject matter expertise and practical knowledge of the property sector.

3.2 Additional Secretary (Fair Trading) conditions

The Amendment Act (section 223A(3)) provides the Secretary with the power to impose additional conditions on approvals. Fair Trading proposes the following additional conditions of approval.

Course delivery

1. The compulsory learning topics specified in the CPD Requirements for property professionals published on the nsw.gov.au website are the topics required to be delivered by approved providers.
2. An approved provider can elect to deliver any number of the compulsory learning topics determined in each CPD year.
3. An approved provider must develop content and deliver the compulsory learning topic in accordance with the compulsory topic outlines.
4. An approved provider must determine the appropriate length of training for each topic, ensuring the learning outcomes in the compulsory topic outline are met.
5. The approved provider must ensure that all topics are delivered as advertised.
6. Approved providers must not train participants on how to breach their legal obligations or how to frustrate the intent of law reforms.

Assessment

7. Approved providers must:
   - 7.1. conduct assessments in accordance with the relevant compulsory topic outline
   - 7.2. conduct the assessment methods or activities with integrity and in a manner that reliably assesses outcomes of learning
   - 7.3. ensure that assessment conditions capture the original work of the registered participant and prevent cheating, including plagiarism
   - 7.4. ensure adequate measures are implemented to prevent a person other than the registered participant from completing the assessment
   - 7.5. ensure that when undertaking any assessment activity, the trainer does not provide a student with the correct answers to a question, or advise a student their knowledge or answer is incorrect, before the assessment has concluded
   - 7.6. only deem a student competent once all assessment activities are satisfactorily completed.

Online delivery

8. Where an approved provider delivers courses online, it must have provided NSW Fair Trading with satisfactory policies and procedures for how online learning will be supported and monitored prior to online delivery.
9. Where an approved provider is delivering courses online, the provider must ensure:
   - 9.1. continuous verification and identification of participants throughout the training session
   - 9.2. the training is interactive, for example through active engagement with the trainer during plenary sessions, group exercises, role plays, peer learning activities, structured interaction between participants in breakout room sessions that are periodically monitored and engaged with by the trainer and other trainer-facilitated activities that require active contribution and engagement from participants.
   - 9.3. meaningful assessment will be carried out throughout delivery, such as knowledge checks and assessable polls.
   - 9.4. trainers have the capabilities to deliver training online, for example ability to operate technology and deliver course content online effectively.

Provision of information to Fair Trading

10. Approved providers must, on written request, provide Fair Trading with any information required to assess the provider’s compliance with the regulations, conditions of approval and the annual compulsory topic outlines. This may include, but is not limited to, information on:

10.1. the name and contact details of individuals who have completed the CPD training course details of course content, delivery methods and persons delivering the course

10.2. the results of assessments of individuals who have completed the CPD training course and their results, including pass, failure and exclusion rates

10.3. details of complaints, including:

10.3.1. the number of complaints received by the provider relating to the CPD training course

10.3.2. the source and nature of the complaints

10.3.3. the action taken by the provider to remedy the matter complained of and the outcome of that action, including what remedial action was taken, if any.

11. Approved providers must participate in any research or evaluation undertaken by NSW Fair Trading regarding CPD delivery, including supporting Fair Trading to engage training participants to participate in research and evaluation.

Cost of CPD courses

12. Approved providers must ensure all costs that will be charged to a participant to complete a CPD compulsory learning topic are clearly and prominently stated in any advertising material and in a manner that ensures the participant is aware of these costs before enrolling.

13. Approved providers must ensure the cost to enrol in a compulsory learning topic is the same no matter where the course participant is located.

Advertising

14. Approved providers must not advertise that self-paced learning, for example pre-reading course material or self-assessments, counts towards minimum CPD hours requirements.

15. An approved provider must not claim, assert or otherwise indicate an affiliation, approval or sponsorship by Fair Trading or the Commissioner for any other purpose than to indicate it is an approved provider for the delivery of continuing and other professional development of licensees and registered persons.

16. An approved provider that does not deliver all compulsory learning topics for a licence category and area of practice, as specified in the CPD Requirements for property professionals published on the nsw.gov.au website, must not represent to participants or prospective participants that completing training with the approved provider meets the licence holder's CPD requirements.

17. The approved provider must not advertise to NSW licence holders that completion of a course with them will meet Fair Trading's mandatory CPD requirements if this is not accurate.

NSW Fair Trading

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