

Celebrating 35 Years



July 2016

The Official Newsletter of the Society of Auctioneers & Appraisers S.A Inc.



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Sandra Berry



Marc du Plessis
Vice President



Victor Velgush
Board Member



Lindsay Warner
Board Member



Ben Clarence
Board Member



Attilio Cavuoto
Board Member



Chris Gill
Board Advisor



PORT LINCOLN

On a stormy Thursday 23rd June, Society Trainers **Chris Gill & Michael Madsen** braved the elements crossing the Gulf to Port Lincoln for a Document & Legislation Update including a short demonstration by Michael Madsen from Lawsoft of the brand new In The Cloud AucDocs (REA Forms).

The Workshop was well attended by local agents who always appreciate the Society's attention to regional areas of SA. Some of the issues covered in the new Q&A Format included the recent changes to contract and agency in regards to swimming pools and sales over \$2 Million with lots of discussion on the new electronic Conveyancing which starts in July and its implications on Agents re titles and legislative processes.

As always there were issues raised in regard to extensions and renewals of agency agreements and implications of special conditions got a good working over.

If you are in a regional area and you would like a similar workshop, please let us know (Garry Topp, 8372 7830 or email Society@auctioneers.com.au)

Chris Gill
Society Trainer





AUCDOCS IN THE CLOUD

Brand New | World-class (REA FORMS)

Contact Person:
GENEVIEVE
sales@reaforms.com.au
08 0223 6092

- All Residential, Commercial, and Rural Sales & Property Management
- Only one (1) office Principal needs to be a Society member for all in the office to use the forms.
- Cloud-based forms which can be used and re-edited.
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- Contract in Mandarin for Chinese Buyers
- App available for iPad devices

We are the only provider in Australia to provide an iPad App, free-of-charge, which operates with your forms. You can create forms offline on the iPad, even if the system is down or you are out of wifi or data range. The forms are then synchronized into the cloud once you are connected to the internet.

Edit and Print, anytime, anywhere, any number

Unlike other products in the market which restricts editing once printed, you can edit any form and print anytime, anywhere. You do not have to re-enter the data once a print job is done.

Just re-open, edit, and re-print.

Sign Online

Forms can be signed online are enabled with E-signing within the form or you can e-mail them to the other party to sign. The Contract has not been enabled (E-signing) as we believe contracts should be printed, read and signed, the good old fashioned way with a pen. Of course, Contracts once signed can be scanned and e-mailed or sent from the facsimile machine. Lawsoft and the Society are conservative and do not believe Contracts should be signed online.



CGT REGIME AFFECTS ALL SALES OVER \$2Million

CHANGES

1. From 1/7/16 all Contracts on or after that date for more than \$2m are subject to new rules about foreign investor CGT (capital gains tax) Withholding Regime.

2. All vendors whether foreigners or not will be required to have a clearance from the ATO !

Agents can obtain clearances. Unless a clearance issued by the ATO is supplied, the Purchaser will by law hold 10% and pay to the tax office.

3. Agents may expect delays in settlements if Conveyancers are not up to speed or “fluff” around (this of course is a strict legal term meaning, not knowing what they are doing or not being efficient).

4. **The Society will cover these new requirements in the Document Update to be held on Tuesday 12th July.**





CGT REGIME AFFECTS ALL SALES OVER \$2Million

CONTRACT FORM UPDATE

1. The Society Contracts will be updated to reflect the rules and obligations in the new online forms from 1 June 2016. **The provisions apply to Contracts signed on or after 1 July 2016.**
2. We have given the new clauses to Lawsoft to implement on line **from 1 June 2016.**

All forms users should now start moving to the new Society AucDocs online forms system (reaforms.com.au) as the existing PC based **AucDocs** system is not being maintained later in the year and will be unsupported soon. The Form 1 is also now released in the new on line system. Consider moving now on line and contact Lawsoft as needs be.

Genevieve or Michael on 8223 6092 .





What should I do? Use an Extension or do a Subsequent Agency? AGENCY QUESTION

The following issues apply **only to Residential Sales Agencies**

Essentially better practice is to use a Subsequent Agency and not use the complex Extension rules under the Act.

A **Subsequent Agency should be done prior to the Agency expiring** and not used when an Auction Agency is in place.

The Act states **only one (1) extension is allowed** so if done afterwards it would be a new Agency Agreement that is used. To tie back in before the Agency lapses use the Subsequent Agency form in the Society of Auctioneers forms that can be found at www.reaforms.com.au.

INDEX

- 1 Basic Rule of Term of Residential Agency Appointments and Period of Agency**
- 2 – 6 Extend using Rules; or**
- 7 “Extend” using Subsequent Agency**

The Society will cover this in the Documentation Update to be held on Tuesday 12th July

BOOK NOW!



What should I do? Use an Extension or do a Subsequent Agency? AGENCY QUESTION

1. Basic Rule of Term of Residential Agency Appointments and Period of Agency

1.1 90 day rule continues

(s 20 1 (c) (ii) - the prescribed period in the act

1.2 with only one (1) "extension" allowed (s 20)

2. Extending an Agency—Must use the Act procedures

2.1 An agency can be extended with the agreement of Vendor but an Agency must follow a procedure (s 20(6a))

2.2 Extended only once—An Agency can only be extended once (s20(6b))

2.3 To extend an Agency needs to serve a Notice of Expiry not earlier than 14 days before the Agency terminates asking (in prescribed format) if the vendor wants to extend.

The Extended Agency can be signed up before the 14 days period expires, leading up to the termination date of the 1st Agency, or after but an Expiry Notice has to be served in the period.

No Expiry Notice before Agency ends—No Extension.

If an Expiry Notice is not given the Agent is not able to extend. (s20(6c)).



What should I do? Use an Extension or do a Subsequent Agency? AGENCY QUESTION

2.4 No Refusal by Vendor and No Extension signed

The Vendor may decline an extension and this must be in writing.

The Vendor may also do nothing in the Notice period.

If no notice is given back (by the Vendor) declining then the Agency **automatically extends** for the prescribed period (s20(6a)(b)(ii)) 180 days then runs.

3. Why present an Extension Agreement if a Notice is served?

3.1 If no reply declining is given by the Vendor (to a Notice of Expiry) and no Extension is presented and signed then it appears 180 days would run automatically.

3.2 This may not be practical as new arrangements would need to be made for expenses and the like.



CONTRACT DESCRIPTIONS

Explained by Chris Gill (Society Trainer)



1. Power of Attorney

The Vendor's name is always used, not the attorney's name. The attorney signs the Contract for the Vendor and the words "as power of attorney for Chris Gill" should be inserted under the Vendor's signature.

The Sales Partner must sight the signed Power of Attorney and check the attorney has the power to act for the Vendor.

If an Enduring Power of Attorney then the attorney can do everything the Vendor can do (subject to the Vendor being alive) however if a General Power of Attorney then the Power of Attorney may only be for a specific purpose which may not include selling the property so caution must be exercised.

An attorney could be acting for a Purchaser and the same terms would apply.

2. Executor of an Estate

Vendor description is "Chris Gill as executor of the estate of Mary Smith deceased".

If 2 executors then "Chris Gill and Brian Smith as executors of the estate of Mary Smith deceased".

If the Transmission Application has been lodged and registered on the Title then simply use the description for the Vendor registered on the Title.

If Probate hasn't been granted then the Sales Partner should seek evidence that the person they are dealing with is an executor, sighting a copy of the Will would suffice or maybe confirmation from the lawyer handling the estate.

The Society will cover this in the Documentation Update to be held on Tuesday 12th July

BOOK NOW!



CONTRACT DESCRIPTIONS

Explained by Chris Gill



3. Family Trust or Superannuation Fund

This one always causes confusion. The Super Fund or the Family Trust cannot enter into a Contract, it is the trustee that signs as Purchaser.

The trustee could be a company, it could be one or several individuals.

The description for the Purchaser if a **company** should be :

"Chris Gill Pty Ltd ACN 123 123 123 as trustee for the Gill Family Trust"; or "CACG Pty Ltd as trustee for the Gill Superannuation Fund".

An ASIC free search should be done on the company to check it exists, is not de-registered or in liquidation and to check the ACN.

The link to the website is

<http://www.connectonline.asic.gov.au>

There may be added complications if the Super Fund is borrowing money for the purchase and then the Purchaser should seek advice from their accountant, conveyancer or lawyer in regards to the correct description.

If the Purchaser is an **individual** as trustee then the description should be "Chris Gill as trustee for the Gill Family Trust" or "Chris Gill as trustee for the Gill Superannuation Fund".

If the Purchaser **instructs** that "and/or nominee" is to be used that that is satisfactory provided the purchaser is noted as an individual or company and/or nominee. Using say "Gill Family Trust and/or nominee " or "Gill Superannuation Fund and/or nominee" would not be acceptable.



Opening the Bid after the Hammer has Fallen!

Clause J of the A-M in the legislation clearly says;
The auctioneer will not accept a bid made after the fall of the auctioneer's hammer

However the **conditions of sale 7.7**

If there is a dispute concerning bids made at the auction where the dispute arises before or after the fall of the hammer or some similar indication that the Property is sold, then the Auctioneer will decide the dispute in a way that he or she deems appropriate

The conditions of sale state that the Auctioneer can resolve a dispute, however ***logic would say you must solve the dispute in a way that does not involve taking a bid after the property is sold as this is quite clear in the legislation, that a bid can not be accepted after the hammer has fallen.***

What is the Answer?

The clause allows a dispute to be resolved not to take a further bid. The dispute can only be as to whether the Auctioneer took the bid or not if there was confusion about that point.

The Auctioneer can determine when the hammer fell if challenged or someone was unsure.

The clause most certainly does not allow taking bids after the Auctioneer declares the hammer has fallen.

If the dispute arose before the fall of the hammer, the Auctioneer can obviously take further bids. The dispute would be by bidders presumably not a dispute as to whether someone was bound by the contract and hammer fall as that would be determined by a court.

Trust this assists.

Mark Kurtze Corsers Solicitors



SECTION 187 RATES

A few years ago, the State Government made the decision to index the Section 187 rates certificate fees annually. In the Government Gazette dated 23 June 2016, the charge for a Section 187 rates certificate was increased by 50 cents, to come into effect **1 July 2016** (see attached excerpt). The new charges will be as follows:

Section 187 Rates Certificate goes from \$31.25 to **\$31.75**

Section 7 Full Council Search goes from \$51.25 to **\$54.55**

Urgent Section 7 Full Council Search goes from \$61.25 to **\$65.75**

[**Click Here
For More Information**](#)



EVENTS AND TRAINING

JOIN US!

Come and join us in our Adelaide Open discussion format Q & A session on Documentation Update and New Practice Forms. Click on the button below for the Training Booking Form.



ADELAIDE Open Discussion Format Q & A Session

The Society, rather than have a formal seminar, is holding an informal documentation and legislation Q & A session for members with Society Trainer Chris Gill...



PRESENTED BY
CHRIS GILL

FOR ALL REAL ESTATE CONSULTANTS AND SUPPORT STAFF

Documentation Update (Real Estate)

Agency, Contract and Form 1 Update and Compliance with Latest Legislation

ENSURE YOUR CURRENT OFFICE
PRACTICE COMPLIES WITH THE
NEW ACT AND REGULATIONS

Topics include:

- Pitfalls and Common Mistakes causing Defective Form 1s (Planning Approvals, Encumbrances, Strata and Community, Court Orders, Warrants of Sale, Interpreting Council Searches)
- New compliance issues
- Completion of documents
- New questions
- Legislative misconceptions
- Common errors
- Market Appraisal and Advertising Range
- Environmental Protection

DATE	Tuesday, 12th July 2016
TIME	8.30am for 9am start to 12noon
VENUE	The Arkaba – Osmond Road 150 Glen Osmond Road, Fullarton
COST	bookings of 5 or more \$55 each members and staff \$66 each non members \$99 each non members – bookings of 5 or more \$88 each
Please book on or before Monday, 4th of July 2016.	

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Society **SALIFE** Feature

June 2016 issue



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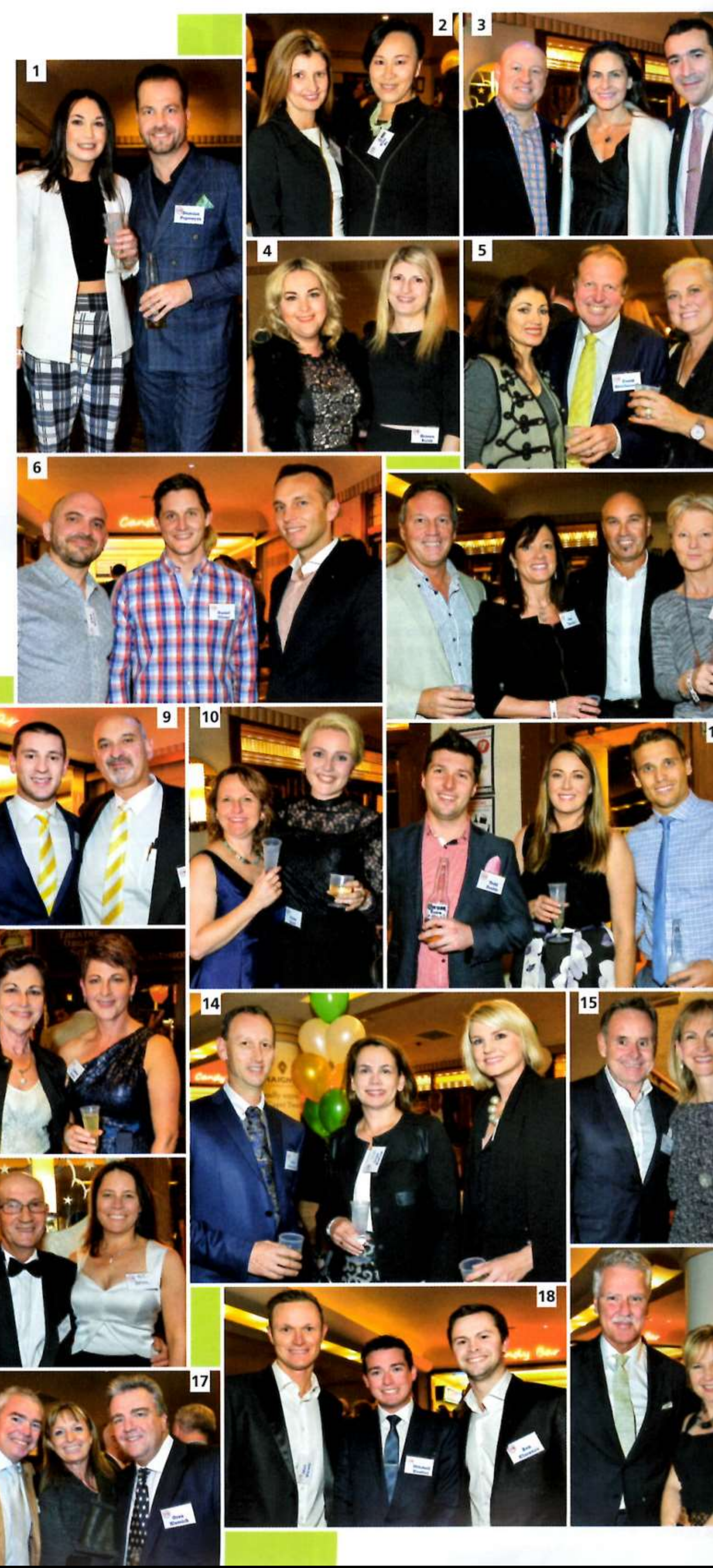
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The highest bidder

Finalists and guests relaxed at a cocktail party ahead of the 2016 SALIFE Golden Gavel awards presentation at the Capri Theatre.

- 1 DeArna Schinella and Damian Popowycz
- 2 Emma Sibila and Elisa Bu
- 3 Victor and Sandra Velgush and Anthony DeMarco
- 4 Grace Weber and Kirsten Buick
- 5 Michele Alexandrou, David Smallacombe and Sharon Reeves
- 6 John Morris, Daniel Oliver and Michael Holowiecki
- 7 Nick Baranikow, Sue and John Turner and Ann-Marie Baranikow
- 8 Jasmin Hodder, Martyn Risbey and Dee Lipinski
- 9 Michael Cavuoto and Attilio Cavuoto
- 10 Corinne van Wyk and Tyler Jones
- 11 Todd Foulds and Kelly and Matt Krieg
- 12 Sam and Emily Berry
- 13 Gabrielle Overton and Sandra Berry
- 14 Marc du Plessis, Jacqui Harbison and Brooke Seward
- 15 David Cocks and Leeane Johnston-Bryan
- 16 Barry and Ali Brook
- 17 Leo and Jenni Redden and Oren Klemich
- 18 Matt Warner, Mitchell Hawkes and Ben Clarence
- 19 Bernie Altschwager and Sharon Gray





SALIFE



See more social pics of the 2016 SALIFE Golden Gavel awards

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Book now for the July issue of SALIFE magazine, on sale Thursday, July 7. With a quick lead time and prime positioning at the front of the magazine, your new property listing will be delivered in high quality to a targeted market. Full page and half page spaces are available to list one or more properties.

Call Brooke on 0407 312 699 or Cassandra on 0400 997 044 today to receive more information and our competitive rates.





NEW MEMBERS



Michael Roberts—Harcourts Wine Coast

I am proud to be a new member of Society of Auctioneers and Appraisers SA Incorporated. Membership assists me in keeping up to date with changes to legislation and industry trends.

Membership allows me access to some fantastic resources and events, and, an invaluable network of supportive and likeminded industry professionals.



Sheela Gupta—Adelaide Homes Sales

I joined the Society of Auctioneers and Appraisers to further enhance my knowledge, I am honoured to be part of this community.



NEW MEMBERS



Lachlan Turner—Turner Real Estate

Lachlan has been involved in the Society for the past decade, however his father, Robin, has been a more familiar face at regular events and training. In recent years, Lachlan has stepped up to do the majority of the company auctions, as Robin enjoys more free time and as such, Lachie looks forward to being a more active part of this network.

Lachie has been involved in selling at Turner Real Estate since 2004 and likes to auction a good range of properties, both that he is selling, and his colleagues in the office are selling, as he loves the power of auction to bring together the buyers and negotiate in an open forum.

He juggles a busy sales career, his Directorship of Turner Real Estate and being a father to three young children (Lachie is also involved in St Ignatius College where the children attend school).



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Medium user (5 - 9 users) licence	\$1,760
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The iPad is fully functional

Also check out the new Property Form condition report which is especially designed for the iPad with a fabulous new interface

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Genevieve: sales@reaforms.com.au or

8223 6092

Michael: itadmin@lawsoft.com.au

Brochure



Member Practice Forms



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- Office Manager has master control to enable all users and salespersons
 - Firm logos on forms
 - Email forms to vendors
- All Property Management and all Tribunal Forms are online
 - 120 Forms without module restrictions
- Sales, Property Management, Commercial and Form 1 online, any time - anywhere
 - Contract in Mandarin for Chinese buyers
- Property Condition Reports are now on the iPad with push button screens
 - iPad forms can be used out of wi-fi and then sync when in wi-fi range



FIRB SERVICE FOR FOREIGN BUYERS

SERVICE TO AGENTS—CORSERS LAWYERS

Instruction Authority & Tax Invoice FIRB Application Service and Advice

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I _____
of _____
email _____ mobile _____

hereby request and instruct *Corsers Lawyers* to apply for FIRB approval in relation to a Contract to purchase property located at:

Corsers agree to advise me regarding a proposed Contract I am considering entering into and *Corsers* will prepare an Application and apply for FIRB Approval (Foreign Investment Review) for me as I wish to purchase property in Australia.

Corsers charge \$550.00 (including GST) to act for their attendances, to seek all relevant information and approval and to then confirm to the Agent selling the property that you have been granted FIRB approval for the Contract. A condition of acting is that payment is made prior to acting by credit card and I provide my details below for payment. A copy of this form is a tax invoice for the services provided.

Signed _____ Dated ____/____/20__

Date of Invoice: ____/____/20__
It is acknowledged that the services are the date of invoice.

Payment by credit card
Card Visa Mastercard



Card Number

Name on Card * _____ * put in name and initials as on the card

Expiry Date _____ Card Verification Number * _____

Amount \$550.00 Signed _____

*this is the number on the rear of the card. For Visa and Mastercard it is located on the back of the card. It is a three (3) digit number that will either, appear on it own, or be preceded by the credit card number. Credit card charges we carry are passed on to you too. *Corsers* do not accept Diners Club or American Express

Dear Members,

Corsers now provide a full FIRB service to Agents to refer Foreign Purchasers to. Please see the attached service Forms information and Authority. The deal is closed when the FIRB approval is given so you want to get that done and we can help. New Rules coming in also require foreign buyers purchasing off the plan paying \$5,000 plus + now, so they and you (and the Vendor) need to know the deal is approved. The Banks also require prompt compliance for funding developers. So use our unique service and be on top of your business and refer buyers in to streamline prompt approvals. We have a Chinese lawyer in house at Corsers (Nadia Shivarev) to deal with any language problems also for Chinese buyers.

Contact Karley Thomas(karley.thomas@corsers.net.au) in the first instance at our office using the Forms attached for any referral.

Corsers provide a full FIRB Service For Foreign Buyers which includes:

- **FIRB applications to complete Contract purchases full advice to Purchaser on FIRB; Contract review; we can remotely advise foreign buyers; Corsers has a Chinese lawyer in house who speaks Chinese**

Call first and send all materials by email to Christine Ward or Karley Thomas at corsers@corsers.net.au:

- The Form 1 with all searches; The Contract; Signed Authority for FIRB approval applications to be applied for in the form attached below - for Corsers to Act for Purchaser FIRB Applications



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Matt Warner

GAVEL & GLASS

The Official Newsletter of the Society of Auctioneers & Appraisers (SA) Inc.

Taking Auction Marketing to a Whole New Level!



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Use your smart phone to search for upcoming Auctions!

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Just search "upcoming auctions"

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INSTANT UPDATE

The moment you add or update an auction to the web page, the app will adjust accordingly

LIST

Please ensure all Upcoming Auctions are posted on our web site the minute they are listed!

Upcoming Auctions App - To be seen by over 180,000 Smartphone users in

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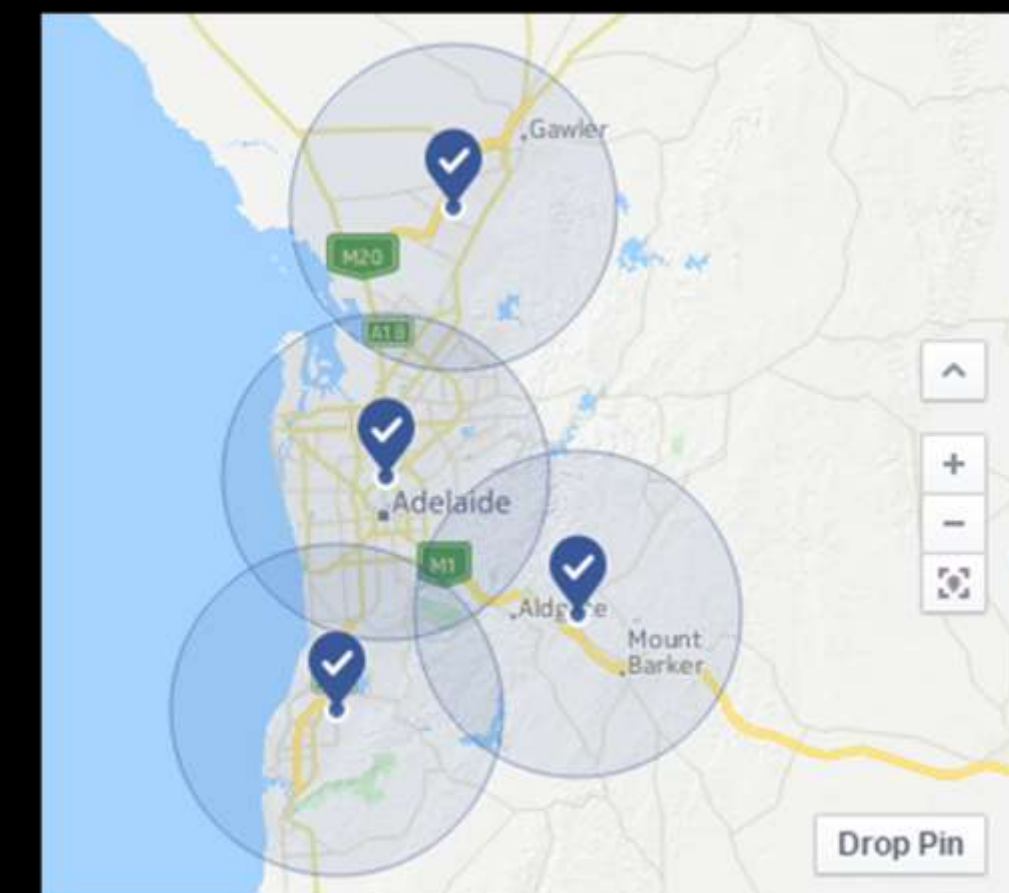


We're targeting Everyone in the below mapped out areas 25 years old+, using both Apple and Android phones.

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All auctions submitted to the website will automatically be uploaded to the phone app, ABSOLUTELY FREE!





Sunset Kangaroo Island Wines

www.sunset-wines.com.au

Sunset Winery ...share the experience



Sunset Winery is Kangaroo Island's first purpose built cellar door/ winery. Part of our production policy is that all fruit for the wine is sourced from Kangaroo Island vineyards

'Award Winning Island Experience' Sunset Winery achieved a four and a half star rating from James Halliday in the '2013 Wine Companion'. Sunset has become a must see, must do destination for self drive tourists to the island.

With one of the best views of any cellar door anywhere, Sunset has become known for its warm welcome, friendly service and relaxed atmosphere. Sunset Winery is the inaugural winner of the 2009 Ultimate Kangaroo Island Producers Food or Wine Experience award as judged by its customers (criteria was judged on service and local produce used in the menu).

Produce used: Island Pure Sheep Cheeses, Kangaroo Island Olive Oil Company's Kalamata olives and oil, Kangaroo Island Bakery bread, homemade gluten free muffins using local free range eggs and Cliffords Honey. Sunset's Savoury (great for 2 to share) served with tastings of our 7 premium wines, morning or afternoon tea, or a peaceful spot to enjoy a glass of wine with that special someone, look no further



Sunset Winery Kangaroo Island

ABN 67 099 878 850

PO Box 133

Penneshaw

South Australia 5222

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Download form

Society



Marketing to Chinese Buyers— Property Brochures in Mandarin



Here are **8** reasons why **Real Estate Agents** should choose to list on **Wowu88.com**

- Printable **Chinese Property Brochures**
- Online property portal (www.wowu88.com)
- Dual language (English & Mandarin) website
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- Unlimited Photo Gallery
- Full Search Options
- Link to Agency website
- Update your listing kit. This is the perfect opportunity to show potential vendors your proactive research of all marketing avenues for the best possible sale outcome



- Compatible with Mobile devices



- E-Brochure

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R4-R7 Government Forms translated into Mandarin available from sales@wowu88.com or call **Emmaline Sibila 08 8113 1833**



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DL65541



The Form 1 company is a specialist provider of the statutory Form 1 (the "cooling-off" form) to the real estate, conveyancing and legal professions.

The complexity associated with form 1 preparation now requires specialist attention. If a Form 1 is defective the contract may be at risk so it is imperative the form 1 is prepared correctly.

We sign the Form 1 for the agent, the Form 1 is then posted on our website to download and serve on the Purchaser.



The Form 1 Company™

The original and pre-eminent Form 1 service provider in South Australia.

Make your searches and Form 1 compliance easy.

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The Form 1 Company

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FORM 3 COOLING OFF WAIVER SERVICE



Corsers Lawyers

are a specialist provider of Form 3 (the "cooling off" waiver form).

Need to close an auction?

Need an unconditional contract?

Call Corsers.

We can handle it all remotely (via phone and internet) and advise the Purchaser and then send a Form 3 Waiver signed by email to help close the deal.



KARLEY THOMAS 8223 6788

The Form 3 Service

The most efficient Form 3 provider in South Australia.

Make your contract closing and Form 3 compliance easy.

Contact:

Karley Thomas
Corsers Lawyers

8223 6788

EMAIL: CORSERS@corsers.net.au



SkyVue

The Society's SkyVUE eBook has taken the Society to a new level of professionalism.

It has enabled us to interact with Members where we can post photos, include videos, update legislation, promote events and Members can book for those events with total flexibility and what's more we can edit anything we put out in seconds!

We have had superb feedback with this new dynamic way of servicing our data base and delivering up to the minute information to Members.

We love it!

Garry Topp

Chief Executive Officer

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