

Description of Property

19. **ACCC Statement of Concern.** “There have also been complaints to the ACCC about misrepresentations about the characteristics of properties. Some advertisements have incorrectly represented that a property has certain features, fixtures or characteristics. Any statements made about whether or not a property has these features, fixtures or characteristics must be true.”

20. **REIA Guidelines.** Real estate agents must provide a full and accurate description of the characteristics of a property. All statements about the description of a property, including its features, fixtures or characteristics, must be truthful and not misleading. Consequently:

- 20.1 All representations made by an agent regarding the description of a property, including the property’s features, fixtures and characteristics, must be true and must not amount to express or implied representations that are false or misleading;
- 20.2 Representations made by real estate agents as to the description of a property and its characteristics must be made accurately and without any embellishment;
- 20.3 The REIA reiterates guideline 5.4 above, in that silence may constitute misleading or deceptive conduct where there is a duty to reveal relevant facts. Whilst there is no general duty of disclosure in commercial dealings, the failure to disclose a fact regarding a particular characteristic of a property might be regarded as being misleading or deceptive, particularly where the recipient of a representation is entitled to believe that the relevant matter would be communicated. Agents should also bear in mind that some State-based regulatory provisions and real estate institute rules of practice contain provisions requiring agents to communicate all material facts in real estate transactions to any person who may be affected by those facts.