

THE HON. JOHN KOBELKE MLA
Minister for Consumer and Employment Protection

In accordance with Section 31 of the *Land Valuers Licensing Act 1978*, the Land Valuers Licensing Board is pleased to submit for your information and for presentation to Parliament the Annual Report for the period 1 July 2001 to 30 June 2002.

Vickie Scarff B.Juris. LLB

CHAIRPERSON

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STATEMENT FROM THE CHAIRPERSON

As Chairperson of the Land Valuers Licensing Board, I now present the Board's Annual Report for the period 1 July 2001 to 30 June 2002.

This year has been particularly challenging and active for the Board.

The Board provided information from its records and gave evidence during the Royal Commission into the Finance Broking Industry. In his final report the Commissioner, Mr Ian Temby QC, stated that the *Land Valuers Licensing Act 1978* and the Land Valuers Licensing Board should be retained. The report also provided some valuable suggestions to improve the functions of the Board and provide for better information for consumers of valuation services. The Board responded positively to the issues and is taking appropriate action within its statutory powers.

The workload of the Board increased markedly during the year, possibly due to the public attention drawn to the industry as a result of the Royal Commission. In order to meet its objectives during this time of increased demand, the Board held additional meetings and established two formal Committees reporting to the Board on complaints and disciplinary Inquiry matters. There was also an increase in the number of Applications for Inquiry following the investigation of a comparatively high number of complaints received during the previous financial year.

The Board understands that the Minister for Consumer and Employment Protection is intending to introduce into Parliament legislative amendments which will strengthen the requirements of the *Land Valuers Licensing Act 1978* and increase the penalties for breaches of the Act and associated regulation. The Board strongly supports the Minister's actions.

Following the tabling of the Royal Commission Report, the Board has been able to work towards concluding the review of its Code of Conduct for Land Valuers, incorporating matters raised by Commissioner Temby. This will compliment the increased legislative regulation of the industry proposed by the Minister.

All land valuer licences expired on 30 June 2002. Renewals are on a triennial basis and there are almost 550 licensed valuers in the industry. Consequently, the licensing renewal process has been an extensive exercise.

The year has presented its challenges and been ultimately fruitful for the Board. The achievements would not have been possible without the support, commitment and professionalism of my fellow Board Members, their Deputies and Board officers to whom I extend a sincere 'thank you'. In addition, on behalf of the Board I would also like to express the Board's appreciation for the support provided by the Minister for Consumer and Employment Protection, Hon John Kobelke MLA.

THE LAND VALUERS LICENSING BOARD

ROLE AND FUNCTIONS OF THE LAND VALUERS LICENSING BOARD

The Land Valuers Licensing Board is a licensing and supervisory authority for people who conduct valuations of land. The Board is responsible to the Minister for Consumer and Employment Protection.

The Board administers the licensing system for land valuers, acts as a disciplinary body and contributes to the public policy agenda by making recommendations on legislative matters to the Minister.

The Board is established under the Land Valuers Licensing Act 1978 (“the Act”). The Act and the Land Valuers Licensing Regulations 1979 (“the Regulations”) set out the licensing requirements for land valuers and invest the Board with the authority to hold disciplinary Inquiries. The Land Valuers Licensing Act 1978 Code of Conduct establishes enforceable standards of conduct land valuers must abide by.

COMPOSITION OF THE BOARD

The Act requires that the Board be comprised of members with a range of legal and valuation expertise. The composition of the Board and the qualifications relevant to each position are prescribed in Section 6 of the Act.

The membership of the Board comprises:

- a Chairperson who is a legal practitioner of not less than seven years standing who is nominated by the Minister from a panel of names submitted by the Law Society of Western Australia [section 6(1)(a) of the Act];
- one member who is nominated by the Minister [section 6(1)(b)];
- two members who are experienced in the valuation of land, are members of the Australian Property Institute, and are nominated by the Minister from a panel of names submitted by the Western Australian Division of that Institute [section 6(1)(c)];

- one member who is experienced in the valuation of land, is a member of the Australian Property Institute, and is nominated by the Minister from a panel of names submitted by the Real Estate Institute of Western Australia [section 6(1)(d) of the Act].

Each member may be appointed for a period of not more than four years, but is eligible for reappointment. The Governor may appoint a person as the deputy of a member.



Standing from left to right – Dr John Bollig, Ms Jenny Le Fevre, Mr John McNamara
Seated – Mr Kingsley Lewis and Ms Vickie Scarff

BOARD PROFILE

Ms Vickie Scarff (Chairperson)

Ms Scarff was appointed pursuant to Section 6(1)(a) of the Act. She was first appointed as Chairperson on 22 October 1996 and her current term expires on 21 October 2002.

Ms Scarff is an experienced legal practitioner and her area of expertise includes property law.

Dr John Bollig (Member) from 1 November 2000

Dr Bollig was appointed pursuant to Section 6(1)(b) of the Act. He was appointed on 1 November 2000 and his current term expires on 31 October 2003.

Dr Bollig has an educational background in architecture, environmental science and town planning, and experience as a director in a number of private and public company groups.

Deputy: Patricia Addison

Mr John McNamara (Member and Deputy Chairperson)

Mr McNamara was appointed pursuant to Section 6(1)(c) of the Act. He was appointed as a member on 18 January 1994 and his current term expires on 31 October 2003.

Mr McNamara has extensive experience as a land valuer. He is the National President of the Australian Property Institute and a Life Fellow of the Institute.

Deputy: John Martin

Ms Jenny Le-Fevre

Ms Le-Fevre was appointed pursuant to Section 6(1)(c) of the Act. She was appointed as a member on 7 May 1996 and her current term expires on 31 October 2002.

Ms Le-Fevre has extensive experience as a land valuer and is a Fellow of the Australian Property Institute. Ms Le-Fevre currently runs her own valuation practice.

Deputy: John Persse

Mr Kingsley Lewis

Mr Lewis was appointed pursuant to Section 6(1)(d) of the Act. He was appointed as a member on 22 October 1999 and his current term expires on 21 October 2002.

Mr Lewis has extensive experience as a land valuer and is a Fellow of the Australian Property Institute. Mr Lewis is currently a Director of a commercial real estate company.

Deputy: Keith Wilson

REMUNERATION OF BOARD MEMBERS

Board members are remunerated on the basis of their attendance at meetings. The Chairperson receives \$280 per day and \$185 per half day. Members receive \$186 per day and \$123 per half day.

BOARD ADMINISTRATION

BOARD MEETINGS

The Board held seven general meetings during the financial year and one special meeting.

The Board generally meets every two months. Because of an increased workload, in April 2002, the Board resolved to meet monthly whilst the increased workload continued. At its meetings the Board considers matters such as applications for land valuers licences, policy and legislation issues, industry education issues and, where required, applications for disciplinary proceedings against licensed land valuers.

BOARD SERVICES

The Department of Consumer and Employment Protection (“the Department”) funds the provision of services to the Board.

Administrative and support services are supplied to the Board by the Finance and Valuation Industries Branch of the Department. This branch also provides support services to the Finance Brokers Supervisory Board.

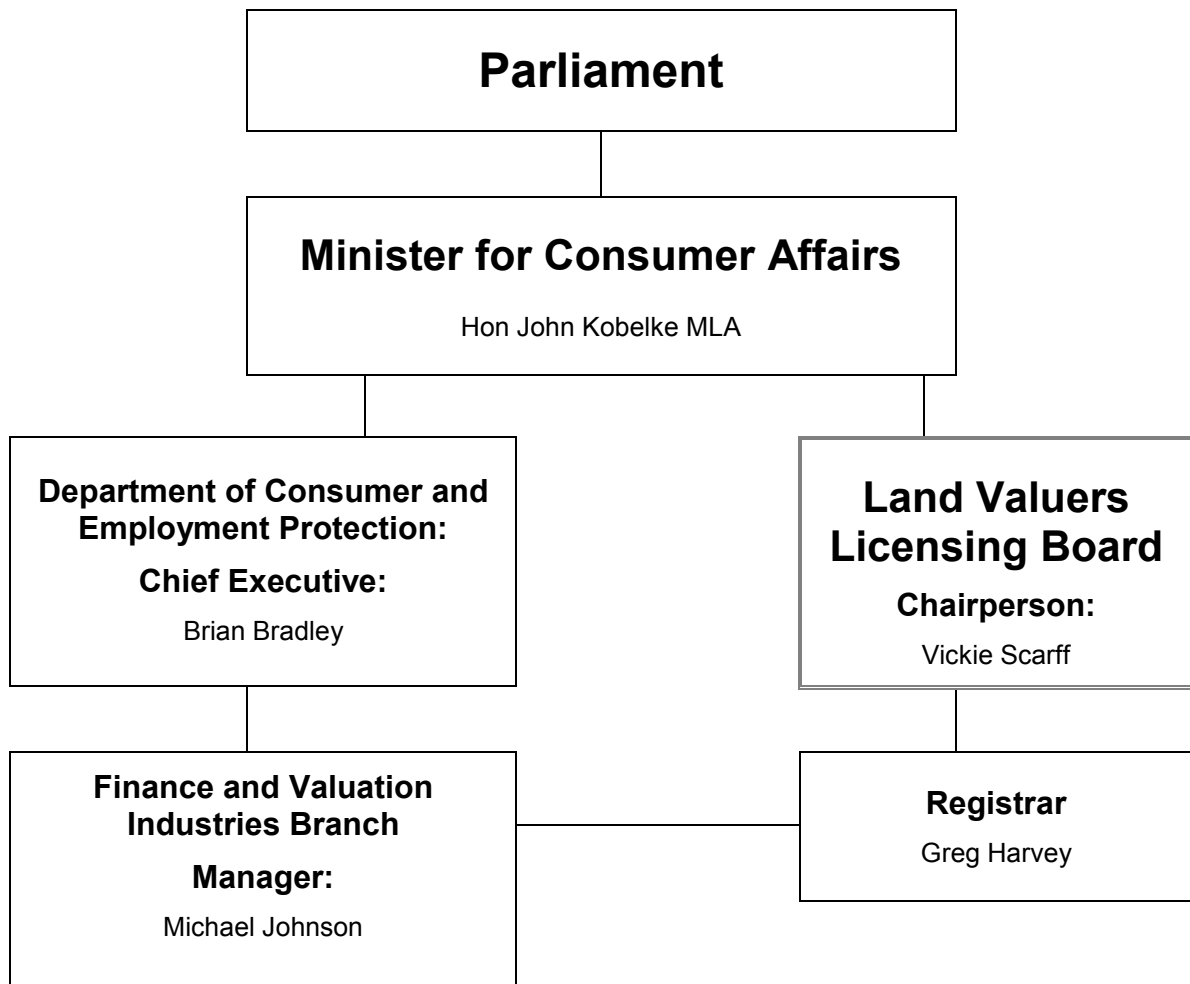
CODE OF CONDUCT AND ETHICS FOR BOARD MEMBERS AND OFFICERS

A Code of Conduct is a combination of rules, policies and procedures that prescribes the conduct of members of an organisation, such as a public sector board.

As a state public sector body, the Board is required to adhere to the Western Australian Public Sector Code of Ethics. The Code of Ethics sets out the values and behaviour expected of state public sector bodies and employees in Western Australia.

The Board also adheres to a Code of Conduct developed for Board members and officers of the Board to complement the Code of Ethics. The Code defines appropriate conduct for Board members and provides guidance for ethical decision making by the Board.

ORGANISATIONAL STRUCTURE



LICENSING

LICENCE REQUIREMENTS

The Board may grant a land valuer's licence to an individual who meets the requirements of the Act and the educational requirements prescribed in the Regulations.

Applicants for a land valuer's licence apply under one of three categories:

1. Members of the Australian Property Institute [19(1)(b) of the Act]; or
 2. Holders of a prescribed degree or diploma who have also had:
 - (a) two years satisfactory practical experience in the valuation of land immediately preceding the date of application; and
 - (b) a total of not less than four years satisfactory practical experience in the valuation of land within the period of ten years immediately preceding the date of application [section 19(1)(c)];
- or
3. Persons who have previously held a licence under the Act within the period of five years immediately proceeding the date of application [section 19(1)(d)].

The required training qualifications are a Bachelor of Commerce or Bachelor of Business Degree, with property or valuation majors. In Western Australia, Curtin University of Technology currently delivers these courses.

NUMBER OF LAND VALUERS

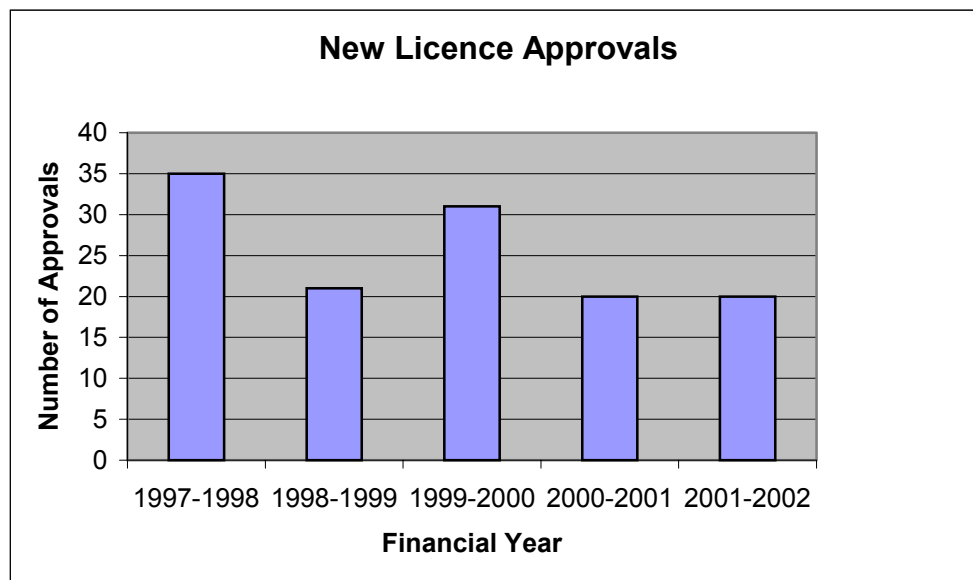
As of 30 June 2002 the total number of land valuers licensed in Western Australia was 549.

NEW APPLICATIONS

During the year, 20 applications for new licences were granted. This represented the same number of applications as the previous year.

Compared to some other occupations, such as the real estate agency or settlement agency practices, the number of people entering the industry are relatively low. The low numbers reflect the high qualifications required and the competitive nature of the industry.

The following graph shows the number of new applicants for a land valuer's licence in the past five years.



LICENCE RENEWALS

Land valuers licences are granted and renewed for a three year (triennial) period and all expired on 30 June 2002.

In May 2002, the Board sent out 549 licence renewal notices. The renewal fee was \$340.50. As at 30 June 2002, the Board had received 414 applications for renewal.

Land valuers have up to 28 days after the expiration of their licence to make an application for renewal. A late fee of \$83 applies to land valuers lodging their renewal applications within this 28-day period.

A new schedule of licensing fees for Land Valuers was gazetted on 28 June 2002 and was effective as of 1 July 2002. The new fee for a licence for a 3-year period is \$340.50. Applicants pay a proportion of this cost according to the date on which their licence is granted.

MUTUAL RECOGNITION

Land valuers licensed in other Australian jurisdictions may receive a Western Australian licence under the provisions of the *Mutual Recognition (Western Australia) Act 1995*.

In 2001/2002, 2 licences were granted through Mutual Recognition. The number of people seeking Mutual Recognition for land valuers licences in Western Australia has historically been low.

The table below provides an overview of the number of licences granted under Mutual Recognition from 1 July 1995 to 30 June 2002.

Table 1: Licences granted under the *Mutual Recognition Act 1995*

Year	1997-98	1998-99	1999-2000	2000-2001	2001-2002
Number Licences	7	1	1	1	2

INVESTIGATIONS

The Board relies on the Department of Consumer and Employment Protection to conduct investigations on behalf of the Board into complaints received against land valuers. The departmental staff conducting these investigations do so under the authority of the *Consumer Affairs Act (WA) 1971*.

To assist in the proper functioning of the Board, a Complaints Committee was established comprised of senior departmental staff and a deputy member of the Board who is a licensed land valuer. The qualified member of the Committee examines each complaint and provides the investigating officer with general advice and guidance on the application of proper land valuation principles and practices. The investigations are conducted independently of the Board in order not to prejudice any investigations that proceed to Inquiry. The Complaints Committee has the delegated authority to close a complaint if, after investigation, there is insufficient prima facie evidence to support an Inquiry. Conversely, the Committee may direct that an application for Inquiry be submitted to the Board.

The Committee monitors the progress of investigations and reports to each meeting of the Board.

During the investigation process, valuations and opinions may be sought from independent qualified sources as required. In all cases, the investigation will focus on the valuer's application of proper practices and principles rather than the actual valuation figure.

COMPLAINTS AGAINST LAND VALUERS

There has been an increase over the past three years in the number of complaints received by the Board and this can be attributed to the public attention drawn to activities in the finance broking industry.

During the year, 19 complaints were received, a decrease of 10 from the previous year. Of these, 13 were from the public and 6 were commenced at the request of the Board's Registrar. Seven of these investigations related to valuers who were named in the Report of the Royal Commission into the Finance Broking Industry.

Complaints against land valuers

	1997/1998	1998/1999	1999/2000	2000/2001	2001/2002
Number of Complaints	1	4	18	29	19

BOARD INQUIRIES

Where a complaint indicates a breach of the Act, Regulations, Code of Conduct or Remuneration Notice, and the investigation and legal advice supports further action, the case may be brought to the Board on Inquiry. In an Inquiry the Board acts as a judicial tribunal.

The Board may, on the application of the Registrar or any other person, or of its own motion, hold an inquiry into the conduct of any licensed valuer.

The Board has the power to summon witnesses, inspect papers and documents, require a person to give evidence on oath or affirmation and require any person appearing before the Board to answer questions.

If the Board is satisfied, after conducting an Inquiry, that cause exists for a licensed valuer to be disciplined, it may:

- (a) reprimand or caution the licensed valuer;
- (b) impose a fine not exceeding \$500 on the valuer;
- (c) suspend or cancel the valuer's licence and, in addition, disqualify the valuer either temporarily or permanently, or until the fulfilment of any condition which may be imposed by the Board, or until further order from the Board, from holding a licence.

While the Board has the statutory authority to discipline licensed valuers, where proper cause exists, it does not have the statutory authority to award compensation to persons who may have suffered civil damages. Persons seeking compensation from land valuers for alleged civil damages must do so by undertaking independent legal action.

Persons who consider they have suffered a loss as a result of a valuers alleged negligent or incompetent actions are nevertheless encouraged to notify the Board of any concerns they may have regarding the conduct of licensed valuers, so that those concerns may be investigated and, where appropriate, disciplinary action taken.

Inquiries Completed during 2001-2002

Number	Respondent(s)	Alleged Breaches	Outcome
3/2001	Clanan Richard Marr	Articles 3(a) and 4(a) of the Code of Conduct (1985)	In July 2001, the Board withdrew the Inquiry on the basis of legal advice recommending this course of action.
1/2002	Brian Handcock	Sections 28(2)(b)(c) of the Act and Article 3(a) of the Code of Conduct (1985)	In April 2002, Mr Handcock surrendered his licence. The Board had previously received legal advice that it had no legal jurisdiction to pursue an inquiry against an unlicensed valuer. The Inquiry was withdrawn by the Board.
2/2000	Robert Elliott	Article 3(a) of the Code of Conduct (1985)	In April 2002, the Board withdrew the Inquiry on the basis of legal advice recommending this course of action.

Ongoing Inquiries

Number	Respondent(s)	Alleged Breaches	Outcome
4/2001	Stephen Olifent	Section 28 (2)(b) of the Act	A hearing date for mention was held on 17 June 2002. A hearing date was set for July 2002.
1/2001	Clanan Richard Marr	Article 4(a) of the Code of Conduct (1985)	Mr Marr indicated at a hearing date for mention that the matter was the subject of Supreme Court proceedings. The Department's legal section issued a Notice for Hearing in April 2002, however the respondent was unable to appear due to Supreme Court commitments. The Board requested an independent witness report and the matter was adjourned pending receipt of this report.
2/2002	Release of respondent's name suppressed as notice had not been issued to respondent as at 30/06/02	Article 3(a) of the Code of Conduct (1985) and Section 28(2)(b) of the Act	The Board approved an Inquiry into these matters in February 2002. In March, the Inquiries Processes Panel sought independent advice from a licensed land valuer with regard to the matter. The valuer's report is due in September 2002.

BOARD COMMITTEES

This year the Board established two subcommittees:

- Inquiry Processes Committee
- Complaints Committee

The **Inquiry Processes Committee** consists of the Board Chairperson, a Board member, the Registrar and the Principal Legal Officer of the Department.

The key objectives of the Inquiries Processes Committee are to ensure that:

- legal action to bring matters before the Board for formal Inquiry, or to initiate Court action, are taken in an effective, efficient and timely manner;

- proper procedures are followed in relation to any Inquiry before the Board;
- appropriate applications are made to the Courts in relation to disciplinary and enforcement matters; and
- any follow up action to the outcome of Inquiries and Court actions are appropriately undertaken on behalf of the Board.

The **Complaints Committee** consists of a Deputy Board Member, the Registrar, the Manager of the Finance and Valuation Industries Branch, and the Principal Compliance Officer.

The key objectives of the Complaints Committee are to ensure that:

- complaints are investigated and any legal advice is sought in an effective, efficient and timely manner;
- appropriate matters become the subject of Applications for Inquiry before the Land Valuers Licensing Board;
- decisions regarding the closure of files or further action to be taken by Officers on behalf of the Board, are appropriate; and
- systemic breaches of legislation or common problems in the industry are identified as early as possible and appropriate action is taken by the Board.

THE ROYAL COMMISSION

In June 2001 the State Government announced a Royal Commission into the Finance Broking Industry. The Board assisted with the provision of information to the royal commission, which involved the analysis of 17 specific development projects. Several important findings relating to the *Land Valuers Licensing Act (WA) 1978* and the Land Valuers Licensing Board emerged in the Report of the Royal Commission.

The Report recommended that the *Land Valuers Licensing Act 1978* and the Land Valuers Licensing Board be retained. The Commissioner, Mr Ian Temby QC, made several other recommendations, including the addition of up to two consumer representatives appointed as Members of the Board, and the need to allocate more resources to assist the Board in its functions.

The Report included a recommendation that the Act be amended to significantly increase the penalties that may be awarded against licensed land valuers for breaches of the legislation. Currently, the maximum penalty for land valuers breaching the Act or Code of Conduct is \$500.

Commissioner Temby also recommended the development of a standard summary sheet to be included in the documentation of all valuations undertaken for mortgage lending purposes.

In the Report, Commissioner Temby noted that in general, only a land valuer has the skill to determine whether a valuation is incompetent or in breach of the Land Valuer's Code of Conduct. Thus, the need for land valuers to assess complaints received by the Board is imperative.

The Board has given its full support to the implementation of the Report's recommendations. The Board understands that proposals to include up to two consumer representatives on the Board and to increase penalties to a maximum of \$5000, as well as other amendments to the Act, will be included in an Omnibus Bill that the State Government will consider in Parliament in the near future.

THE YEAR IN REVIEW

A review of the framework and composition of Consumer Protection Boards and Committees is currently under consideration by the State Government. Significant changes have been flagged by the State Government, including a proposal that the existing Boards be merged into three primary Boards.

The Board made a submission to the Review that the Land Valuers Licensing Board remain a separate entity. In brief, the reasoning behind the Board's position is as follows:

- a merged 'conglomerate' Board would be less responsive to the needs of a changing industry;
- within a 'conglomerate' Board dealing with a number of industries, issues of concern to the small industries such as land valuation are likely to be overtaken by those of the larger industries;
- a 'conglomerate' Board is unlikely to contain adequate levels of expertise in each area of industry; and
- the Report of the Royal Commission recommended retaining the Board and including two consumer representatives on it as Board members.

It is anticipated that the State Government's full report on the matter will be available in the near future.

The Gunning Committee of Inquiry (commenced in 2000) and the Royal Commission into the Finance Broking Industry have identified areas for regulatory improvement. These Inquiries have also highlighted the need for increased regulatory vigilance. In response, the Board is implementing policies and practices together with a revised Code of Conduct, to enhance its regulation of the industry and increase protection for consumers utilising the services of the industry.

LAND VALUERS' CODE OF CONDUCT

The Board, with the approval of the Minister, may prescribe a Code of Conduct under section 26 of the Act. The Code is an important method of regulating the operations of licensed valuers and is legally binding on the valuers. The Code was last reviewed and gazetted in 1999, after remaining unchanged since the original Code of 1985.

CODE OF CONDUCT REVISION

In the last financial year the Board commenced a review of the Code of Conduct. In late 2001, the Minister forwarded a draft version of the Code to all licensed land valuers for comment. The Board considered the responses received and made further changes to the Code.

Publication of the new Code was withheld pending the Report of the Royal Commission into the Finance Broking Industry. That Report raised some interesting issues and a recommendation that valuation reports for investment purposes include an executive summary.

Further work is continuing on the development of a revised Code of Conduct that is expected to be published by the end of 2002.

LAND VALUERS AMENDMENT REGULATIONS 2002

The State Government reviewed the licence fees for a number of occupational industries. As a result, the following new licence fees were gazetted and will become effective on 1 July 2002.

Schedule of fees as at 1 July 2002

NEW LICENCE FEES	
Time Period	Licence Fee
No more than 6mths	\$57.50
More than 6mths & no more than 12mths	\$115.00
More than 12mths & no more than 18 mths	\$170.50
More than 18mths & no more than 2 yrs	\$230.00
More than 2yrs & no more than 2yrs 6 mths	\$287.50
More than 2yrs 6 mths & no more than 3 yrs	\$340.50
OTHER FEES	
Licence Renewal	\$340.50
Examination Fee	\$ 39.00
Fee to inspect register	\$10.50
Certificate of Individual Registration	\$10.50 (first page) \$2.00 (each subsequent page)
Fee for certificate of ALL registrations in the register	\$124.00

EDUCATION AND AWARENESS

NEW INTERNET WEBSITE

A new internet website for the Land Valuers' Licensing Board was introduced in March 2002 and public interest in the site has been increasing.

The website provides information on a range of issues including:

- The Board and its functions;
- Legislation;
- Inquiry matters;
- Licensing;
- Register of licensed land valuers;
- Helpful hints for persons using the services of a land valuer; and
- Links to other related sites.

The website address is www.docep.wa.gov.au/landvaluers.

PUBLICATIONS

The Board continues to provide a publication entitled "*Notes on Land Valuers*" for persons using the services of a land valuer. The publication is also available on the Board's website.

TELEPHONE AND COUNTER SERVICE

The Department of Consumer and Employment Protection provide both a counter and telephone advice service to the public, on behalf of the Board. Both services are available during business hours for advice about the licensing and regulation of land valuers.

STAFF TRAINING INITIATIVES

During the 2001-2002 year, appropriate Consumer Protection staff were given the opportunity to participate in training within the Department. Investigation Officers within the Branch were invited to attend a comprehensive compliance course, which spanned six months and addressed key aspects of the Department's compliance program. The Department's Legal Services Unit also provided compliance-oriented training sessions on the processes involved in seizing documents.

Customer Service and Process Improvement training was completed by a number of staff in August 2001 after a series of eight sessions over a five month period. This training was a Departmental initiative to ensure an integrated and quality customer service focus across the entire organisation.

REVENUE AND EXPENDITURE

The Board is not a statutory authority for the purposes of the *Financial Administration and Audit Act 1985*.

All licensing fees paid to the Board are collected and brought to account by the Department of Consumer and Employment Protection and credited to the consolidated fund at State Treasury. The costs of maintaining the operations of the Board are met from funds appropriated by Parliament for the purposes of the Department. Amounts of income and expenditure are incorporated in the accounts of the Department and are published in the Department's Annual Report.

Section 175ZE of the *Electoral Act 1907* requires public agencies to report details of expenditure to organizations providing services in relation to advertising, market research, polling, direct mail and media advertising. The Board has not incurred expenditure of this nature.