



# Annual Report 2009–2010

**SETTLEMENT AGENTS SUPERVISORY BOARD**





# Contents

<b>Statement of compliance</b> .....	2	<b>Disclosures and legal compliance</b> .....	21
Contact details .....	2	Auditor General's opinion .....	22
<b>Overview</b> .....	3	Financial statements .....	24
Executive summary .....	4	Certification of financial statements .....	24
Highlights for 2009–10 .....	5	Statement of Comprehensive Income .....	25
Operational structure .....	6	Statement of Financial Position .....	26
Enabling legislation .....	6	Statement of Changes in Equity .....	27
Responsible minister .....	6	Statement of Cash Flows .....	28
Mission .....	6	Notes to the Financial Statements .....	29
Organisational structure .....	6	Additional Key Performance Indicator Information .....	56
Performance management framework .....	10	Certification of Key Performance Indicators .....	56
Outcome Based Management framework .....	10	Detailed information in support of Key Performance Indicators .....	57
Changes to Outcome Based Management framework .....	10	Ministerial directives .....	60
Shared responsibilities with other agencies .....	10	Other financial disclosures .....	61
<b>Performance</b> .....	11	Pricing policies of services provided .....	61
Report on operations .....	12	Capital Works .....	61
Service one: Licensing .....	12	Employment and industrial relations .....	61
Service two: Compliance .....	13	Governance disclosures .....	62
Service three: Education and awareness .....	14	Contracts with senior officers .....	62
Service four: Fidelity Guarantee Account .....	17	Freedom of Information requests .....	62
Actual results versus budget targets .....	18	Other legal requirements .....	63
Financial targets .....	18	Advertising .....	63
Summary of Key Performance Indicators .....	18	Disability Access and Inclusion Plan .....	63
<b>Significant issues</b> .....	19	Compliance with Public Sector Standards and ethical codes .....	63
Current and emerging issues and trends .....	20	Recordkeeping plan .....	63
National Occupational Licensing System .....	20	Government policy requirements .....	64
Electronic Conveyancing .....	20	Substantive equality .....	64
Changes in written law .....	20	Occupational safety, health and injury management .....	64
Likely developments .....	20	Appendix .....	65

# Statement of compliance

For year ended 30 June 2010

HON BILL MARMION  
MINISTER FOR COMMERCE

In accordance with section 63 of the Financial Management Act 2006, we hereby submit for your information and presentation to Parliament, the Annual Report of the Settlement Agents Supervisory Board for the financial year ended 30 June 2010.

The Annual Report has been prepared in accordance with section 112 of the *Settlement Agents Act 1981* which applies the relevant provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006*.



Mirina Muir  
Chair

Date: 1 September 2010



Valerie Haskins  
Member

Date: 1 September 2010

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# Overview



# Executive summary

As the chair of the Settlement Agents Supervisory Board (the Board), it is with great pleasure that I present its Annual Report for the financial year ending 30 June 2010.

In 2009–10, the Board continued to facilitate the professionalism of the settlement industry and ensure that understanding of settlement legislation maintained its growth. Moreover, the Board's confidence in the protection provided to consumers in Western Australia remained as buoyant as ever.

Without doubt, the most significant development in the reporting period was the announcement in January 2010 from the then-Minister for Commerce that the State Government would seek to abolish the Board by 1 July 2011.

On a purely functional level, its abolition has raised important questions about where the myriad of services for which the Board presently takes responsibility will shift. At this early stage, many of those questions remain unanswered; what is clear, however, is that the improving professionalism of settlement agents and the confidence consumers have in them will remain the benchmarks of a successful industry.

The foundations of the National Occupational Licensing System (NOLS) continued to be laid and, in late 2009, the Board, in conjunction with the Department of Commerce, held a discussion forum following the release of the draft National Occupational Licensing Law Bill 2008. While still in its nascent stages, the Board remains committed to keeping settlement agents apprised of the ongoing progress of the NOLS and values the feedback it has received.

The Board's Compulsory Professional Development (CPD) program continued to enjoy very healthy attendance rates in the reporting period and amendments to the program for the 2010 calendar year have made it even simpler for individual licensed settlement agents to achieve compliance.

The Board's website underwent a substantial upgrade and its improved appearance is matched by the ease with which one can now access the wealth of information it contains.

The Board has been heartened by extremely positive feedback concerning the upgrade and, together with the increased distribution of e-Bulletins, has kept settlement agents informed of important industry-related developments.

The many useful publications which the Board produces were also routinely updated, ensuring that the information contained therein is accurate and reflects any legislative amendments or changes in practice. As always, these important publications continue to be an essential point of reference for both settlement agents and consumers.

In closing, I would like to take this opportunity to acknowledge the substantial efforts of my fellow Board members and their deputies, Board staff and the staff of the Real Estate Branch of the Department of Commerce. Without their tireless efforts and commitment to carrying out the Board's statutory functions, the Board's achievements would not have been realised. I look forward to a similarly productive and busy year in 2010–2011.

## Highlights for 2009–10

### Board and other proceedings

During the reporting period 1 July 2009 – 30 June 2010 the Board:

- convened for 12 board meetings;
- convened for four licensing hearings;
- commenced three disciplinary proceedings against agents in the State Administrative Tribunal (the SAT);

### Achievements

During the reporting period 1 July 2009 – 30 June 2010 the Board:

- processed 39 applications for new licences;
- processed 266 applications for triennial certificate renewal;
- assessed and acknowledged 46 new general compliance investigations;
- completed 25 trust account investigations;
- completed 49 investigations into qualified audits;
- issued 39 educational and 17 breach non-compliance letters to industry from the Registrar;

- made 119 proactive compliance visits to settlement agencies across WA;
- had 24 core and elective CPD seminars conducted on its behalf by West Coast Property Training (WCPT) and six elective CPD seminars held by the Australian Institute of Conveyancers (AICWA); and
- launched the redeveloped website.



Mirina Muir

Chair

Date: 1 September 2010

# Operational structure

## Enabling legislation

The Settlement Agents Supervisory Board (the Board) is the independent statutory authority established under the *Settlement Agents Act 1981* (the Act) to regulate people who conduct settlement transactions in Western Australia.

The Board administers the Act, the Settlement Agents Regulations 1982 (the Regulations), and the Settlement Agents' Code of Conduct 1982 (the Code of Conduct).

## Responsible minister

The Hon Bill Marmion BE MBA MLA took over responsibility as the Minister for Commerce on 29 April 2010. Throughout the reporting period until 28 April 2010 the responsible minister was Mr Troy Buswell MLA.

## Mission

The Board's goal is that the people of Western Australia have confidence in the settlement industry.

The core values and conduct that will help the Board achieve this desired outcome are:

**Accountability:** The Board serves the needs of the public through the government in a professional, responsible and accountable manner.

**Integrity:** The Board deals with its members and staff, with the industry and the public on the basis of trust, understanding and respect for differing views and interests. The Board undertakes to perform its functions in a fair and open manner.

**Professionalism:** The Board performs its services to the best of its ability with optimum use of resources and with a focus on continuously improving quality, productivity, and professional development.

**Responsiveness:** The Board endeavours to provide high quality information and services to the government, industry, and the public.

## Organisational structure

### Board structure

The Board is fully funded by industry in the form of:

- licensing revenue;
- interest earned on money held in agents' trust accounts; and
- interest earned on retained funds.

This money is used to finance the statutory functions of the Board to the settlement industry and the community of Western Australia. The statutory functions are provided by means of the following services:

**Licensing:** involves the quality control of people seeking to enter the settlement industry for the first time and of those already licensed in that industry.

**Compliance:** ensures that licensed settlement agents comply with the relevant legislation and financial reporting requirements, and those that undertake unlicensed activity are stopped from doing so.

**Education and Awareness:** aims to encourage awareness of 'best practice' throughout the settlement industry through activities such as proactive visits, the Compulsory Professional Development (CPD) program, seminars, publications and through the Board's website.

**Fidelity Guarantee Account:** centres on the assessment of reimbursement claims from consumers who have suffered pecuniary loss or loss of property through the criminal or fraudulent actions of a licensed settlement agent who holds a current triennial certificate, in the course of the business of that agent. This also includes the actions of an agent's employees.

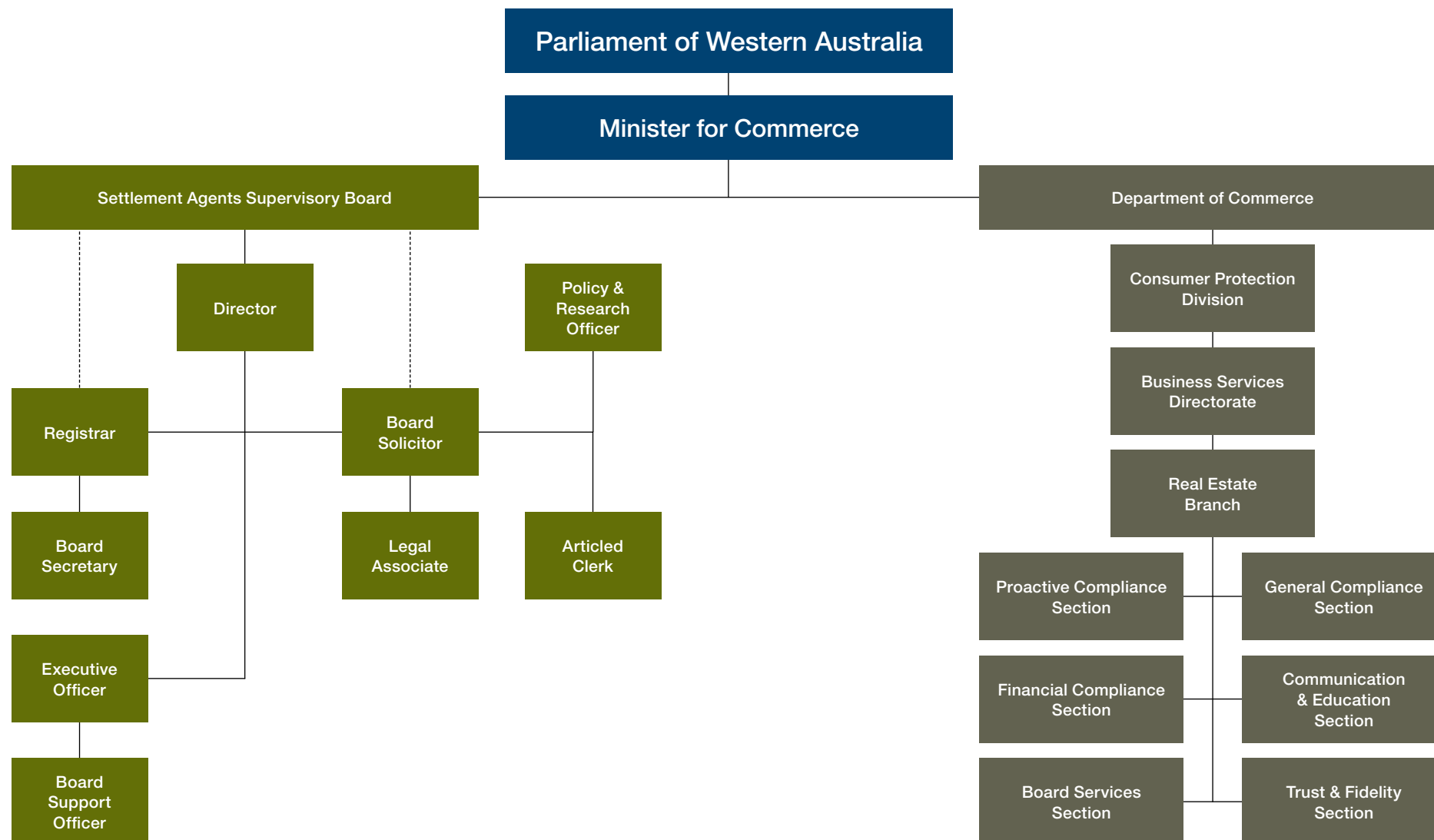
### Service Delivery Agreement

The Board contracts the Department of Commerce (the Department) to provide services under a Service Delivery Agreement (SDA). These services assist the Board to carry out its functions. The SDA sets out the services and performance measures between the Board and the Department, in accordance with government output based management requirements.



# Operational structure

Organisational chart



# Operational structure

## Members of the Board

The required composition of the Board is set out in section 6 of the Act. There are five members of the Board appointed by the Governor of Western Australia:

- one must be a person who is not a licensed agent who is also appointed Chair;
- one must be a person who is a legal practitioner and not a licensed agent;
- one must be a person who is experienced in commercial practice and not a licensed agent; and
- two must be licensed agents elected by licensed agents to the position.

Members may hold office for up to four years and are eligible for re-election or reappointment. The Governor may appoint a deputy of a member.



### Chair: Ms Mirina Muir

Ms Muir brings to the position extensive experience as a legal practitioner with a background in education, mediation and arbitration. She is also a chartered international arbitrator

and accredited mediator. Ms Muir previously held the position as the legal practitioner member for the Settlement Agents Supervisory Board from 2001 until 2005. Ms Muir is currently a consultant with a private practice law firm in Western Australia.



### Legal Practitioner Member: Mr Steven Phillips

Mr Phillips is a legal practitioner operating his own law firm. Mr Phillips has been the legal member since September 2005. He was previously, since March

2003, the deputy legal practitioner member.

**Deputy Member: Ms Sabina Schlink**



### Commercial Member: Mr Rod Lane

Mr Lane is a Fellow of the Australian Society of Practising Accountants, a Fellow of the Institute of Chartered Secretaries Australia, and an Associate

Fellow of the Australian Institute of Management. He has been a member of the Board since October 2005. He operates his own private management company.

**Deputy Member: Mr Brian Darling**



### Elected Member: Ms Judith Pinczuk

Ms Pinczuk is one of two members elected for appointment by licensed settlement agents. She has spent most of her life in the industry,

been licensed as a real estate settlement agent since 1988 and has operated her own agency for over 12 years. Ms Pinczuk has been a member of the Board since June 2003.

**Deputy Member: Mr Dominic Loiacono**

# Operational structure



## **Elected Member: Ms Valerie Haskins**

Ms Haskins is one of two members elected for appointment by licensed settlement agents. She is a licensed real estate settlement agent with 33 years

experience in the industry, and has operated her own agency for 23 years. Ms Haskins has been a member of the Board since July 1995.

## **Deputy Member: Mr Stephen Britten**

### **Our people**

The Board engages nine staff. The Director, Board Solicitor, Legal Associate, Articled Clerk, Board Executive Officer and Board Support Officer are employed in a joint-funding arrangement with the Real Estate and Business Agents Supervisory Board. The Registrar, Research and Policy Officer and Board Secretary are employed solely by the Board.

### **Role of senior staff**

#### **Director**

The Director is the Chief Employee of the Board and provides advice and assistance to the Board in its day-to-day operations. The Director is also responsible for ensuring that the Board's policies and strategies for regulating the settlement industry are implemented and monitored.

The Director manages the Board's financial and human resources, oversees legal services, assists with planning and strategic issues and represents the Board in negotiating, monitoring, and reporting on contracts with external providers, including the Service Delivery Agreement with the Department of Commerce.

The Director also assists the Board to comply with legislation relevant to its statutory obligations.

#### **Board Solicitor**

The Board Solicitor manages legal and policy services for the Board. This includes providing advice to the Board, and its staff and inspectors on the interpretation and application of legislation administered by the Board. The Board Solicitor also provides advice on other matters relevant to the Board, such as the conduct of proceedings before the Board, the SAT and the courts.

#### **Registrar**

The Registrar assists in overseeing the operations of the Board and provides leadership and guidance to Board and branch staff. The Registrar assists the Director on policy, legislative and operational issues that may impact on the Board's viability or ability to meet legislative requirements. It is the Registrar's duty to contribute as a member of a number of staff and Board sub-committees to assist in the management, development, implementation and

evaluation of Board objectives and policies and manage Board projects as directed.

The Registrar is also responsible for determining or advising how investigations are concluded.

### **Other key legislation impacting on the Board**

In the performance of its functions, the Board complies with the following relevant written laws:

*Auditor General Act 2006;*

*Criminal Code Act Compilation Act 1913;*

*Disabilities Services Act 1993;*

*Electoral Act 1907;*

*Equal Opportunity Act 1984;*

*Fair Trading Act 1987;*

*Financial Management Act 2006;*

*Freedom of Information Act 1992;*

*Legal Profession Act 2008;*

*Magistrates Court Act 2004;*

*Mutual Recognition (Western Australia) Act 2001;*

*Mutual Recognition Act 1992 (Cwlth);*

*Occupational Safety and Health Act 1984;*

*Public Sector Management Act 1994;*

*Public Interest Disclosure Act 2003;*

*State Records Act 2000;*

*State Supply Commission Act 1991;*

*State Administrative Tribunal Act 2004;* and

*Supreme Court Act 1935*

# Performance management framework

## Outcome Based Management framework

The key service of the Board is to regulate the settlement industry. This is achieved through the discharge of its statutory functions: licensing, compliance, education and awareness, and the Fidelity Guarantee Account. The effective regulation of the industry enables the Board to achieve its desired outcome that people can have confidence in the industry. This ultimately contributes to meeting the Government's goal of achieving results for the benefit of all Western Australians.

Government goal	Board's desired outcome	Service
<b>Outcomes Based Service Delivery</b> Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.	The people of Western Australia have confidence in the settlement industry.	Regulation of the settlement industry through the discharge of the Board's statutory functions.

## Changes to Outcome Based Management framework

The Board's Outcome Based Management framework did not change during 2009–10.

## Shared responsibilities with other agencies

The Board did not share any responsibilities with other agencies in 2009–10.

# Performance

# Report on operations

## Service one: Licensing

### Strategic objectives

The Board's 2009–10 reporting period objectives were to:

- administer the scheme of licensing in accordance with the Act;
- assess the fitness<sup>1</sup> of people entering the industry; and
- audit the computer databases to ensure the information recorded is accurate.

### Performance

In 2009–10 the Board was able to achieve the following outcomes:

- 39 applications for new settlement agent licences processed;
- 266 applications for triennial certificate renewal processed;
- 100 per cent of new licence applicants advised of the outcome of their application within eight days of a Board decision;
- More than 86 per cent of agents applying to renew their triennial certificate advised of the

outcome of their application within seven days of the Registrar's decision; and

- 95.82 per cent of database accuracy.

### Overview

All settlement agents require a licence as well as a current triennial certificate in order to carry on business in Western Australia. The licence issued by the Board is continuous, while the triennial certificate is issued for a period of three years at a time.

The Board assesses licence applications to ensure that only suitably qualified people enter the industry as settlement agents. To create high standards of practice and behaviour in the industry, uniform minimum standards of competency apply.

In 2009–10, the Board received 39 applications for settlement agent licences. This figure represents a decrease of 34 per cent below that reported for 2008–09. During the reporting period the Board did not conduct any recorded licensing interviews.

### Settlement agent licensing fees

The fees charged by the Board in accordance with the Settlement Agents Regulations 1982 for real estate and business settlement agent licensing applications during the reporting period were as follows:

### New agent applications:

Individual	\$804
Firm or partnership/Body corporate	\$1,006

### Agent renewal applications:

Individual/Firm/Body corporate	\$571
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Note: These fees are inclusive of a Fidelity Guarantee Account payment of \$150.

### Holding fee

Agents who wish to continue to remain a licensee, but do not want to carry on business or hold a triennial certificate may do so by paying a holding fee of \$198. This places their licence on hold for a period of three years. At the end of the reporting period, 40 real estate settlement agents and three business settlement agents had their licences on hold.

### Licensing kit

A licensing kit that provides information for new licence holders is available on the Board's website. The kit consists of information on setting up a trust account, auditing processes, settlement fee scales, and the CPD guide. The licensing kit also contains a fact sheet titled *Licensing of settlement agents* that includes information for agents in other states and territories of Australia who may be seeking a Western Australian licence under the *Mutual Recognition (Western Australia) Act 2001* and the *Mutual Recognition Act 1992 (Cwlth)*.

<sup>1</sup> Section 27(1)(b) of the *Settlement Agents Act 1981*, states that to be granted and hold a licence an applicant must be "...a person of good character and repute and a fit and proper person". The Board considers this and a number of factors set out in s27 of the Act when considering the suitability of an applicant.



# Report on operations

## Service two: Compliance

### Strategic objectives

In 2009–10, the Board strived to meet the following objectives:

- that prompt, accurate advice is given to industry members and the public;
- that prompt action is taken against agents who fail to comply with the requirements of the *Settlement Agents Act 1981* (the Act), the Settlement Agents Regulations 1982 (the Regulations) and the Settlement Agents' Code of Conduct 1982 (the Code of Conduct);
- that complaints are investigated promptly and dealt with by the Board or Registrar in a timely manner;
- that qualified audit reports are investigated; and
- that in appropriate cases the Board commences proceedings before the State Administrative Tribunal (the SAT) or directs the Registrar to bring prosecutions in the Magistrates Court.

### Performance

In 2009–10 the Board was able to achieve the following outcomes:

#### In general compliance

- 42 investigations commenced;
- 35 investigations completed;
- 100 per cent of investigations acknowledged within seven calendar days; and
- More than 98 per cent of investigations commenced within 14 calendar days.

#### In financial compliance

- 50 qualified audit investigations commenced;
- 49 investigations into qualified audits completed;
- 98 per cent of qualified audit investigations commenced within seven calendar days;
- 27 trust account investigations commenced;
- 25 trust account investigations completed; and
- 100 per cent of trust account investigations commenced within 14 calendar days.

### General compliance

This year saw an increase in the number of new investigations commenced into the conduct of agents. In 2009–10 the Board commenced 42 investigations, compared to 37 in the previous reporting period.

At the end of the reporting period, 31 investigations were still outstanding.

In 2009–10, the Registrar closed 35 investigations, and issued 17 breach non-compliance letters and 39 advisory letters.

In this reporting period, the Board commenced three proceedings in the SAT, one of which was completed. No matters were commenced in the Magistrates Court.

### Financial compliance

During 2009–10, the Board commenced 50 investigations into qualified audit reports compared to 57 from the previous reporting period. It is believed this decrease is due to a combination of Compulsory Professional Development, the pro-active compliance program and stricter interpretations by the audit team on what should constitute a qualified audit report.

There were also 27 trust account investigations commenced in 2009–10 compared to 24 from the previous reporting period.

# Report on operations

## Service three: Education and awareness

### Strategic objectives

In 2009–10, the Board endeavoured to meet the following education and awareness objectives:

- conduct proactive compliance visits to settlement agencies that have not received a visit for three years;
- provide a counter information service to members of the public and industry;
- provide a telephone information service to members of the public and industry;
- develop educational material, including booklets and fact sheets, for distribution to members of the public and industry;
- conduct training sessions for branch staff to ensure the provision of consistent, accurate and high quality advice and service to members of the public and industry;
- publish the quarterly newsletter, *Settlement Agents News*, for distribution to licensees, auditors and members of the public who wish to receive a copy;
- publish regular e-Bulletins as needed; and
- provide the most up-to-date information on the Board's website.

### Performance

In 2009–10 the Board achieved the following outcomes:

- 119 proactive compliance visits of settlement agencies were completed across Western Australia;
- Four issues of the *Settlement Agents News* were published and distributed to all licensees, auditors and members of the public who requested a copy; and
- 13 e-Bulletins were issued.

### Proactive compliance

This financial year, the Board conducted 119 proactive visits to agencies, a 10 per cent decrease from the 133 agencies visited in 2008–09. Of those visits 28 were new agencies. Focus is now on new agents and those considered a higher risk (for example agents who have received a qualified audit report). Proactive compliance visits are carried out in accordance with a standard process, which includes examining:

- whether correspondence and documents conform to the Act, the Regulations and the Code of Conduct;
- whether agents are exercising control over the issue and signing of trust cheques;
- the correct timing of the drawing of the agent's fees;

- whether the agency has up-to-date copies of legislative requirements; and
- whether bank reconciliations are completed in compliance with the Act.

Where non-compliance is identified, practical advice and guidance is given, within reason, on how the agency may correct the problem, and comply with the requirements of the Act, the Regulations and the Code of Conduct. If the non-compliance is serious the visit is stopped. The majority of feedback received from agents who have participated in the program indicates that the proactive compliance visits were helpful and informative.

### Information services

In 2009–10, people seeking information on settlement matters were able to call the Real Estate and Settlement Advice Line for the cost of a local call statewide. Ninety-three per cent of calls to this line were answered within 40 seconds. All settlement-specific calls were transferred directly on to and dealt with by the Board's settlement compliance staff via the dedicated Settlement Agents Advice Line.

The main areas of enquiry related to difficult settlements, the *Joint Form of General Conditions*, RCDs, hard-wired smoke alarms, penalty interest disputes, fees settlement agents can charge, parties conducting their own settlements and scenarios involving conflicts of interest.

# Report on operations

## Compulsory Professional Development

The Board's Compulsory Professional Development (CPD) program, which began in 2008, continued in the 2009–10 financial year for all applicable individual licensed settlement agents who hold a current triennial certificate. During this time, the feedback regarding core and elective activities indicated that participants derived great benefit from the program and remained supportive of the Board's initiative. During the reporting period, 24 core and elective sessions were conducted on behalf of the Board by West Coast Property Training (WCPT).

Throughout this period, development work also continued on the upgrade to the CPD Online system; the aim of this upgrade was to incorporate a bulk-upload function, allowing approved CPD training providers to enter the details of attendees to courses in a fast and simple manner. Additionally, amendments to the CPD reporting functions in the Complaints and Licensing System were realised, resulting in more accurate monitoring of CPD compliance across the entire settlement industry.

As in the previous financial year, all non-compliant settlement agents were contacted towards the end of the calendar year to remind them of their CPD obligations. This proactive approach, combined with regular CPD updates in both the *Settlement Agents News* and e-Bulletins, assisted in the settlement industry achieving a compliance rate of 93 per cent in the 2009 calendar year.

While the Board resolved to extend the contract with WCPT to develop and deliver the core and prescribed elective CPD activities in 2010, it amended the conditions to allow other training providers to present non-prescribed elective activities; however, attendance at any activities not provided by WCPT is not funded by the Board. It is anticipated that this change will make it even easier for settlement agents to acquire the six CPD points that are required.

In the beginning of 2010, the upgrade of the CPD Online system was completed and deployed. The feedback from approved CPD training providers has been, so far, very positive; specifically, users have commented on the improved speed of the system and the ease with which the details of attendees to courses can now be entered.

WCPT has noted robust attendance figures for the first six months of 2010, with 10 seminars being conducted in both metropolitan and regional areas. Encouraged by continued strong attendance rates and positive feedback, the Board remains confident that the fundamental aims of the CPD program are being met.

## Education funding

The Board provides financial support to promote its education objectives. The Board uses a prescribed proportion of the interest earned from settlement agents' trust accounts for this purpose.

The total expenditure for education during the reporting period was \$236,476.

## Education Advisory Committee

The role of the Board's Education Advisory Committee is to advise the Board on education initiatives and priorities. This year the Committee was comprised of the following members:

- Ms Valerie Haskins – Board member and Education Advisory Committee Chair;
- Mr Geoff Couper – Board Registrar;
- Ms Jill Nelson-Coulon – Australian Institute of Conveyancers WA Division Inc; and
- Ms Liz Reiss – Independent Settlement Agents Association.

In April 2009 a Working Group was created to focus on the review of the Act and the Code of Conduct. It comprised the above members and:

- Mr Stephen Britten – Deputy Board member;
- Mr Steven Phillips – Board member; and
- Mr Rob Ockerby – Director Ockerby Real Estate.

In 2009–10, the Committee met seven times. Some of the matters the Committee addressed included discussion of the impact of the impending National Occupational Licensing System on current settlement legislation in Western Australia, a review of the Settlement Agents' Code of Conduct 1982, a review of the Conveyancing Guide and monitoring of the CPD program.

# Report on operations

## **Settlement Agents News**

The *Settlement Agents News* is mailed to all licensees and their auditors on a quarterly basis to provide information on industry practice issues, legislative amendments and updates on requirements such as the CPD program. All recent and archived editions can be downloaded from the Board's website. The newsletter is issued to approximately 1050 recipients each quarter and is also available to the public free of charge.

## **SASB e-Bulletin**

Initially trialled in 2008 as a potential alternative to the quarterly newsletter, this financial year the SASB e-Bulletin was distributed in tandem with the newsletter and has cemented its role as a monthly communiqué from the Board to industry members who opt to be on its mailing list. Its popularity has grown to well over 400 recipients who get rapid access to the latest settlement updates from the Board, Landgate, the Office of State Revenue and CPD training providers. Hyperlinks throughout the e-Bulletins give readers instant electronic access to relevant email contacts, websites and corresponding articles.

## **Website**

February 2010 saw the launch of the Board's new website – [www.sasb.wa.gov.au](http://www.sasb.wa.gov.au). The decision to redevelop the existing website followed a period of consultation with industry participants. The Board has succeeded in providing a more efficient search function, and has made the website more user-friendly and easy to navigate.

The Board's website is an essential tool in the provision of advice to industry participants and the public. The website features important information regarding licensing and renewal requirements, compliance and the CPD program. Industry participants can view past editions of the *Settlement Agents News* and the SASB e-Bulletin. They can also view the Board's policies and relevant legislation.

The website similarly serves to educate members of the public who can access electronic versions of consumer publications, a register of settlement agent licence holders and information about the Fidelity Guarantee Account and how to lodge a complaint.

The online settlement calculator allows home buyers and sellers to calculate maximum settlement fees particular to their situation. Home buyers and sellers can also access information about the offer and acceptance and settlement processes.

Some of the features of the new layout include the introduction of a 'latest announcements' box on the home page and a prominent welcome message that communicates the Board's role. The new website features a modern design and has a more streamlined, appealing appearance. Improved graphics have also contributed to the website's new look.

The content of the website continues to be reviewed and updated on a regular basis, ensuring that the information available remains as organised and accurate as possible.

## **Publications**

The Board produces nine publications, which provide important information to both industry and members of the public on topical issues relevant to real estate and business settlement transactions. These publications are:

- *A guide to auditing settlement agents' trust accounts;*
- *A guide to investigations and disciplinary proceedings;*
- *A guide to the Compulsory Professional Development program for settlement agents operating in Western Australia;*
- *Choosing a settlement agent;*
- *Information for complainants – settlement industry;*

# Report on operations

- *Licensing of settlement agents;*
- *Property settlement;* and
- *SASB Trust account handbook.*

The Board, in conjunction with the Real Estate and Business Agents Supervisory Board, also produces a joint publication titled *Complaint handling guidelines for the settlement and real estate industries*.

In 2009–10, the Board completed full reviews of all of the above publications except for *A guide to investigations and disciplinary proceedings* (which was revised just prior to the financial year), and *A guide to auditing settlement agents' trust accounts* and the *SASB Trust account handbook* (which were expected to be completed shortly after the reporting period).

All publications are available on the Board's website and most can be delivered on request in hard copy format.

## Service four: Fidelity Guarantee Account

### Strategic objectives

The purpose of the Fidelity Guarantee Account (the FGA) is to provide financial reimbursement to people who suffer pecuniary loss or loss of property through the criminal or fraudulent actions of a licensed settlement agent who holds a current triennial certificate, in the course of the business of that agent. This also includes the actions of an agent's employees.

### Performance

In 2009–10 the Board was able to achieve the following outcomes:

- no claims lodged against the FGA; and
- one claim finalised.

### Overview

The FGA is financed through contributions from agents, interest on agents' trust accounts, and interest generated on the FGA. The FGA is kept at Treasury, forming part of the trust fund constituted under section 16 of the *Financial Management Act 2006*. Money standing to the credit of the FGA is invested with Treasury, and income derived from this is credited to the FGA.

The criteria for making a claim are:

- the applicant has suffered financial loss or loss of property;
- the loss was due to the defalcation (which includes criminal or fraudulent conduct) of a settlement agent or their employee;
- the agent is licensed and holds a current triennial certificate; and
- the loss occurred in the course of the business of the agent.

### Fidelity Guarantee Account claims lodged

Financial year	2005–06	2006–07	2007–08	2008–09	2009–10
Number of claims	19	9	1	0	0

The Board publishes an information bulletin designed to assist claimants in completing the form. This is available on the Board's website and contains information about the FGA, including eligibility criteria and an overview of the claim process.

# Actual results versus budget targets

## Financial targets

	2009–10 Target <sup>1</sup>	2009–10 Actual	Variation <sup>2</sup>
Total cost of services (expense limit)	\$3,393,732	\$2,692,824	(\$700,909)
Net cost of services	(\$277,895)	\$2,922,005	\$3,199,900
Approved full time equivalent (FTE) staff level	4.6	4.6	0

1 As specified in the budget statements for the year in question.

2 Explanations for the variations between target and actual results are presented in the 'Explanatory statement' in the section 'Notes to the financial statements'.

## Summary of Key Performance Indicators

	2009–10 Target	2009–10 Actual	Variation <sup>1</sup>
<b>Board's desired outcome:</b> The people of Western Australia have confidence in the settlement industry.	86 per cent <sup>2</sup>	88.56 per cent	+2.56 per cent
<b>Key effectiveness indicator:</b> The extent to which settlement agents and others comply with the requirements of the <i>Settlement Agents Act 1981</i> , the <i>Settlement Agents Regulations 1982</i> and the <i>Settlement Agents' Code of Conduct 1982</i> in relation to the management of their trust accounts.			
<b>Service:</b> Regulation of the settlement industry through the discharge of the Board's statutory functions.	\$5,559.40 <sup>3</sup>	\$5,984.05	\$425.01
<b>Key efficiency indicator:</b> The average cost per licensed agent, of regulating the settlement industry.			

1 Explanations for the variations between target and actual results are presented in the 'Notes to the indicator' in the section 'Detailed information in support of Key Performance Indicators'.

2 Figure rounded down to nearest whole number from preceding year's actual percentage.

3 Figure obtained by dividing budgeted annual costs for 2009–10 (\$2,501,732) by total number of active licensed agents (450).



# Significant issues

# Current and emerging issues and trends

## National Occupational Licensing System

The National Occupational Licensing System (NOLS) is scheduled to commence for settlement agents from 1 July 2013. The Board has been mindful of ensuring that the settlement industry remains informed of any developments as it will impact heavily on the way settlement agents practice in Western Australia.

While the specific legislative and procedural implications of the NOLS have yet to be finalised, the Board is ensuring it is regularly updated by the Department of Commerce's representative on the Interim Property Advisory Committee (IPAC). The IPAC was established shortly after the Minister's announcement to abolish the Board (see 'Likely developments', below) to provide advice to the Minister on the development of the NOLS, among other things.

## Electronic Conveyancing

As part of the development of the National Electronic Conveyancing System (NECS), January 2010 saw the establishment of National EConveyancing Development Ltd (NECDL). The role of NECDL is to

progress the work previously being guided by the National Steering Committee. NECDL expect to deliver an operational system by the end of 2011. The Board is ensuring it remains up to date with information regarding the move towards electronic conveyancing and the development of NECS, as it will significantly affect the settlement industry in Western Australia.

## Changes in written law

In the Act references to 'Account' were amended to 'Interest Account' by No. 46 of 2009 s. 15(2) and 15(3) and the conditions for the office of a member of the Board to become vacant were amended by No. 18 of 2009 s. 80. The table of fees in Schedule 1 of the Regulations was amended.

## Likely developments

On 27 January 2010 the former Minister for Commerce Mr Troy Buswell announced that legislation to abolish the Board by 1 July 2011 is likely to be introduced into State Parliament by the end of 2010. This follows Premier Colin Barnett's announcement in March 2009 of the State Government's intention to reduce the number of existing boards and committees.

Under the proposed regime, the licensing and regulatory functions of the Board, the Real Estate and Business Agents Supervisory Board and the Land Valuers Licensing Board would be managed by the Commissioner of Consumer Protection. The employing authority and financial responsibility of these boards would be handled by the Director General of the Department of Commerce. A smaller committee of property industry and consumer representatives would be formed for input to Government.

During the reporting period senior staff from the Board and the Department of Commerce met to discuss the implications of the inevitable handover of duties.

It is the Government's hope that this reform will better position the local property industry for the national harmonisation of licensing, standards and regulatory arrangements under the NOLS which is expected to begin on 1 July 2012 for 'property agents' and on 1 July 2013 for settlement agents specifically.

# Disclosures and legal compliance

# Auditor General's opinion



## Auditor General

### INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

#### **SETTLEMENT AGENTS SUPERVISORY BOARD FINANCIAL STATEMENTS AND KEY PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2010**

I have audited the accounts, financial statements, controls and key performance indicators of the Settlement Agents Supervisory Board.

The financial statements comprise the Statement of Financial Position as at 30 June 2010, and the Statement of Comprehensive Income, Statement of Changes in Equity and Statement of Cash Flows for the year then ended, a summary of significant accounting policies and other explanatory Notes.

The key performance indicators consist of key indicators of effectiveness and efficiency.

#### **Board's Responsibility for the Financial Statements and Key Performance Indicators**

The Board is responsible for keeping proper accounts, and the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the Treasurer's Instructions, and the key performance indicators. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements and key performance indicators that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; making accounting estimates that are reasonable in the circumstances; and complying with the Financial Management Act 2006 and other relevant written law.

Page 1 of 2

4<sup>th</sup> Floor Dumas House 2 Havelock Street West Perth 6005 Western Australia Tel: 08 9222 7500 Fax: 08 9322 5664

# Auditor General's opinion

## **Settlement Agents Supervisory Board**

### **Financial Statements and Key Performance Indicators for the year ended 30 June 2010**

#### **Summary of my Role**

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the financial statements, controls and key performance indicators based on my audit. This was done by testing selected samples of the audit evidence. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion. Further information on my audit approach is provided in my audit practice statement. This document is available on the OAG website under "How We Audit".

An audit does not guarantee that every amount and disclosure in the financial statements and key performance indicators is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements and key performance indicators.

#### **Audit Opinion**

In my opinion,

- (i) the financial statements are based on proper accounts and present fairly the financial position of the Settlement Agents Supervisory Board at 30 June 2010 and its financial performance and cash flows for the year ended on that date. They are in accordance with Australian Accounting Standards and the Treasurer's Instructions;
- (ii) the controls exercised by the Board provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (iii) the key performance indicators of the Board are relevant and appropriate to help users assess the Board's performance and fairly represent the indicated performance for the year ended 30 June 2010.



COLIN MURPHY  
AUDITOR GENERAL  
16 September 2010



# Financial statements

## Certification of financial statements For the year ended 30 June 2010

The accompanying financial statements of the Board have been prepared in compliance with the provisions of the Financial Management Act 2006 from proper accounts and records to present fairly the financial transactions for the financial year ended 30 June 2010 and the financial position as at 30 June 2010.

At the date of signing we are not aware of any circumstances which would render the particulars included in the financial statements misleading or inaccurate.



Mirina Muir  
Chair

Date: 1 September 2010



Rod Lane  
Member

Date: 1 September 2010



Tim Banfield  
A/Director SASB  
Chief Finance Officer

Date: 1 September 2010





# Statement of Comprehensive Income

For the year ended 30 June 2010

	Note	2010 \$	2009 \$
<b>INCOME</b>			
<i>Revenue</i>			
Agents trust account income		3,658,258	4,135,587
Licence income	4	121,653	111,790
Contributions to the Fidelity Guarantee Account		39,750	34,800
Fines and costs		22,000	14,890
Interest revenue	5	1,763,828	2,179,232
Other revenue	6	9,339	64,362
<b>TOTAL INCOME</b>		<u>5,614,828</u>	<u>6,540,661</u>
<b>EXPENSES</b>			
Employee benefits expense	7	409,993	448,073
Board fees		30,181	35,410
Supplies and services	8	1,987,536	1,641,399
Depreciation and amortisation expense	9	6,836	15,630
Accommodation expenses	10	262	228
Grants	11	236,476	138,569
Other expenses	12	21,540	36,479
<b>TOTAL EXPENSES</b>		<u>2,692,824</u>	<u>2,315,788</u>
<b>PROFIT FOR THE PERIOD</b>		<u>2,922,004</u>	<u>4,224,873</u>
<b>OTHER COMPREHENSIVE INCOME</b>			
Other comprehensive income		—	—
<b>TOTAL COMPREHENSIVE INCOME/(LOSS) FOR THE PERIOD</b>		<u>2,922,004</u>	<u>4,224,873</u>

The Statement of Comprehensive Income should be read in conjunction with the accompanying notes.



# Statement of Financial Position

As at 30 June 2010

	Note	2010 \$	2009 \$
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and cash equivalents	19	18,719,297	18,717,440
Restricted cash and cash equivalents	19	26,981,783	24,257,805
Receivables	13	840,356	667,727
<b>Total Current Assets</b>		<u>46,541,436</u>	<u>43,642,972</u>
<b>Non-Current Assets</b>			
Plant and equipment	14	<u>11,635</u>	<u>6,688</u>
<b>Total Non-Current Assets</b>		<u>11,635</u>	<u>6,688</u>
<b>TOTAL ASSETS</b>		<u>46,553,071</u>	<u>43,649,660</u>
<b>LIABILITIES</b>			
<b>Current Liabilities</b>			
Payables	16	207,517	221,958
Provisions	17	35,416	41,525
Licence revenue received in advance	4	103,776	96,433
Other current liabilities	18	<u>150</u>	<u>150</u>
<b>Total Current Liabilities</b>		<u>346,859</u>	<u>360,066</u>
<b>Non-Current Liabilities</b>			
Licence revenue received in advance	4	83,919	79,651
Provisions	17	<u>45,079</u>	<u>54,733</u>
<b>Total Non-Current Liabilities</b>		<u>128,998</u>	<u>134,384</u>
<b>TOTAL LIABILITIES</b>		<u>475,857</u>	<u>494,450</u>
<b>NET ASSETS</b>		<u>46,077,214</u>	<u>43,155,210</u>
<b>EQUITY</b>			
Retained earnings		46,077,214	43,155,210
<b>TOTAL EQUITY</b>		<u>46,077,214</u>	<u>43,155,210</u>

The Statement of Financial Position should be read in conjunction with the accompanying notes.



# Statement of Changes in Equity For the year ended 30 June 2010

	Note	2010 \$	2009 \$
<b>Balance of equity at start of year</b>		<u>43,155,210</u>	<u>38,930,337</u>
<b>RETAINED EARNINGS</b>			
Balance at start of year		43,155,210	38,930,337
Total comprehensive income for the year		<u>2,922,004</u>	<u>4,224,873</u>
Balance at end of year		<u>46,077,214</u>	<u>43,155,210</u>
<b>Balance of equity at end of year</b>		<u>46,077,214</u>	<u>43,155,210</u>
Total income and expense for the period <sup>(a)</sup>		2,922,004	4,224,873

<sup>(a)</sup> The aggregate net amount attributed to each category of equity is: surplus \$2,922,004 (2009: surplus \$4,224,873).

The Statement of Changes in Equity should be read in conjunction with the accompanying notes.



# Statement of Cash Flows

For the year ended 30 June 2010

	Note	2010 \$	2009 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Receipts</b>			
Agents trust account interest received		3,550,238	4,449,222
Bank and investment interest received		1,599,843	2,534,805
Licence receipts		133,264	123,967
Contributions paid into the Fidelity Guarantee Account		39,750	34,800
GST receipts on sales		–	197
GST receipts from taxation authority		46,509	38,921
Other receipts		130,715	83,043
<b>Payments</b>			
Employee benefits		(425,756)	(432,517)
Supplies and services		(2,043,343)	(1,766,110)
GST payments on purchases		(57,126)	(49,535)
Grants		(236,476)	(138,569)
<b>NET CASH PROVIDED BY OPERATING ACTIVITIES</b>	<b>19</b>	<u>2,737,618</u>	<u>4,878,224</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Purchase of non-current physical assets <sup>(a)</sup>		(11,783)	–
<b>NET CASH (USED IN) INVESTING ACTIVITIES</b>		<u>(11,783)</u>	<u>–</u>
Net increase in cash and cash equivalents		2,725,835	4,878,224
Cash and cash equivalents at the beginning of period		42,975,245	38,097,021
<b>CASH AND CASH EQUIVALENT ASSETS AT THE END OF PERIOD</b>	<b>19</b>	<u>45,701,080</u>	<u>42,975,245</u>

<sup>(a)</sup> Due to the change in capitalisation threshold where assets below \$5,000 are to be expensed, the cash flows under investing activities represents the extent to which expenditure has been made for resources that are initially recognised as an asset in the Statement of Financial Position. Therefore, expenditure on items below \$5,000 is classified as an operating activity.

The Statement of Cash Flows should be read in conjunction with the accompanying notes.



# Notes to the Financial Statements

For the year ended 30 June 2010

## 1. Australian Accounting Standards

### General

The Board's financial statements for the year ended 30 June 2010 have been prepared in accordance with Australian Accounting Standards. The term 'Australian Accounting Standards' refers to Standards and Interpretations issued by the Australian Accounting Standard Board (AASB).

The Board has adopted any applicable, new and revised Australian Accounting Standards from their operative dates.

### Early adoption of standards

The Board cannot early adopt an Australian Accounting Standard unless specifically permitted by TI 1101 *Application of Australian Accounting Standards and Other Pronouncements*. No Australian Accounting Standards that have been issued or amended but not operative have been early adopted by the Board for the annual reporting period ended 30 June 2010.

## 2. Summary of significant accounting policies

### (a) General Statement

The financial statements constitute general purpose financial statements that have been prepared in accordance with the Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board as applied by the Treasurer's Instructions. Several of these are modified by the Treasurer's Instructions to vary application, disclosure, format and wording.

The *Financial Management Act* and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board.

Where modification is required and has had a material or significant financial effect upon the reported results, details of that modification and the resulting financial effect are disclosed in the notes to the financial statements.

### (b) Basis of Preparation

The financial statements have been prepared on the accrual basis of accounting using the historical cost convention.

The accounting policies adopted in the preparation of the financial statements have been consistently applied throughout all periods presented unless otherwise stated.

The financial statements are presented in Australian dollars and all values are rounded to the nearest dollar unless otherwise stated.

There have been no judgements made in the process of applying the Board's accounting policies that have significant effect on the amounts recognised in the financial statements.

### (c) Reporting Entity

The reporting entity comprises only the Board and there are no related bodies.



# Notes to the Financial Statements

For the year ended 30 June 2010

## **(d) Income**

### Revenue Recognition

Revenue is measured at the fair value of consideration received or receivable. Revenue is recognised for the major business activities as follows:

- Proceeds from triennial licensing fees are allocated over 36 months from the month of receipt. The portion of licensing fees which relate to the current year are recognised as revenue. The remainder of the proceeds are recognised as revenue received in advance.
- Interest revenue is recognised as the interest accrues.

### Gains

Gains may be realised or unrealised and are usually recognised on a net basis. These include gains arising on the disposal of non-current assets.

## **(e) Plant and Equipment**

### Capitalisation/Expensing of assets

Items of plant and equipment costing \$5,000 or more are recognised as assets and the cost of utilising assets is expensed (depreciated) over their useful lives. Items of plant and equipment costing less than \$5,000 are immediately expensed direct to the Statement of Comprehensive Income (other than where they form part of a group of similar items which are significant in total).

### Initial recognition and measurement

All items of plant and equipment are initially recognised at cost.

For items of plant and equipment acquired at no cost or for nominal cost, the cost is the fair value at the date of acquisition.

### Subsequent measurement

After recognition as an asset the Board uses the cost model with all items of plant and equipment carried at cost less accumulated depreciation and accumulated impairment losses.

### Depreciation

All non-current assets having a limited useful life are systematically depreciated over their estimated useful lives in a manner that reflects the consumption of their future economic benefits.

Depreciation is calculated using the straight line method, using rates which are reviewed annually. Estimated useful lives for each class of depreciable asset are:

Computers hardware	3 years
Office and other equipment	3 to 5 years





# Notes to the Financial Statements

For the year ended 30 June 2010

## **(f) Impairment of Assets**

Plant and equipment is tested for any indication of impairment at the end of each reporting period. Where there is an indication of impairment, the recoverable amount is estimated. Where the recoverable amount is less than the carrying amount, the asset is considered impaired and is written down to the recoverable amount and an impairment loss is recognised. As the Board is a not-for-profit entity, unless an asset has been identified as a surplus asset, the recoverable amount is the higher of an asset's fair value less costs to sell and depreciated replacement cost.

The risk of impairment is generally limited to circumstances where an asset's depreciation is materially understated, where the replacement cost is falling or where there is a significant change in useful life. Each relevant class of assets is reviewed annually to verify that the accumulated depreciation reflects the level of consumption or expiration of asset's future economic benefits and to evaluate any impairment risk from falling replacement costs.

The recoverable amount of assets identified as surplus assets is the higher of fair value less costs to sell and the present value of future cash flows expected to be derived from the asset. Surplus assets carried at fair value have no risk of material impairment where fair value is determined by reference to market-based evidence. Where fair value is determined by reference to depreciated replacement cost, surplus assets are at risk of impairment and the recoverable amount is measured. Surplus assets at cost are tested for indications of impairment at the end of each reporting period.

Refer to note 15 'Impairment of assets' for the outcome of impairment reviews and testing.

## **(g) Leases**

The Board holds a number of operating leases for motor vehicles. Lease payments are expensed on a straight line basis over the lease term as this represents the pattern of benefits derived from the leased motor vehicles.

## **(h) Financial instruments**

In addition to cash, the Board has two categories of financial instrument:

- Receivables; and
- Financial liabilities measured at amortised cost.

Financial instruments have been disaggregated into the following classes:

Financial Assets

- Cash and cash equivalents
- Receivables

Financial Liabilities

- Payables

Initial recognition and measurement of financial instruments is at fair value which normally equates to the transaction cost or the face value. Subsequent measurement is at amortised cost using the effective interest method.



# Notes to the Financial Statements

For the year ended 30 June 2010

The fair value of short-term receivables and payables is the transaction cost or the face value because there is no interest rate applicable and subsequent measurement is not required as the effect of discounting is not material.

## **(i) Cash and cash equivalents**

For the purpose of the Statement of Cash Flows, cash and cash equivalent (and restricted cash and cash equivalent) assets comprise cash on hand and short-term deposits with original maturities of three months or less that are readily convertible to a known amount of cash and which are subject to insignificant risk of changes in value.

## **(j) Receivables**

Receivables are recognised and carried at original invoice amount less an allowance for any uncollectible amounts (i.e. impairment). The collectability of receivables is reviewed on an ongoing basis and any receivables identified as uncollectible are written-off against the allowance account. The allowance for uncollectible amounts (doubtful debts) is raised when there is objective evidence that the Board will not be able to collect the debts. The carrying amount is equivalent to fair value as it is due for settlement within 30 days.

Refer to note 2(h) 'Financial Instruments' and note 13 'Receivables'.

## **(k) Payables**

Payables are recognised at the amounts payable when the Board becomes obliged to make future payments as a result of a purchase of assets or services. The carrying amount is equivalent to fair value, as they are generally settled within 30 days.

Refer to note 2(h) 'Financial Instruments' and note 16 'Payables'.

## **(l) Provisions**

Provisions are liabilities of uncertain timing and amount and are recognised where there is a present legal or constructive obligation as a result of a past event and when the outflow of resources embodying economic benefits is probable and a reliable estimate can be made of the amount of the obligation. Provisions are reviewed at the end of each reporting period.

### **Provisions – employee benefits**

#### ***Annual leave and long service leave***

The liability for annual and long service leave expected to be settled within 12 months after the reporting period is recognised and measured at the undiscounted amounts expected to be paid when the liabilities are settled. Annual and long service leave expected to be settled more than 12 months after the reporting period is measured at the present value of amounts expected to be paid when the liabilities are settled. Leave liabilities are in respect of services provided by employees up to the end of the reporting period.

When assessing expected future payments consideration is given to expected future wage and salary levels including non-salary components such as employer superannuation contributions. In addition, the long service leave liability also considers the experience of employee departures and periods of service.



# Notes to the Financial Statements

For the year ended 30 June 2010

The expected future payments are discounted using market yields at the end of the reporting period on national government bonds with terms to maturity that match, as closely as possible, the estimated future cash outflows.

All annual leave and unconditional long service leave provisions are classified as current liabilities as the Board does not have an unconditional right to defer settlement of the liability for at least 12 months after the reporting period.

## *Superannuation*

The Government Employees Superannuation Board (GESB) in accordance with legislative requirements administers public sector superannuation arrangements in Western Australia.

Employees may contribute to the Pension Scheme, a defined benefit pension scheme now closed to new members or to the Gold State Superannuation Scheme (GSS), a defined benefit lump sum scheme also closed to new members.

Employees commencing employment prior to 16 April 2007 who were not members of the Pension or the GSS became non-contributory members of the West State Superannuation Scheme (WSS). Employees commencing employment on or after 16 April 2007 became members of the GESB Super Scheme (GESBS). Both of these schemes are accumulation schemes. The Board makes concurrent contributions to GESB on behalf of employees in compliance with the Commonwealth Government's Superannuation Guarantee (Administration) Act 1992. These contributions extinguish the liability for superannuation charges in respect of the WSS and GESBS.

The Pension Scheme and the pre-transfer benefit for employees who transferred to the GSS are defined benefit schemes. These benefits are wholly unfunded and the liabilities for future payments are provided for at the end of the reporting period. The liabilities under these schemes have been calculated separately for each scheme annually by PricewaterhouseCoopers using the projected unit credit method.

The expected future payments are discounted to present value using market yields at the end of the reporting period on national government bonds with terms to maturity that match, as closely as possible, the estimated future cash outflows.

The GSS, the WSS and the GESBS, where the current service superannuation charge is paid by the Board to the GESB, are defined contribution schemes. The liabilities for current service superannuation charges under the GSS, the WSS and the GESBS are extinguished by the concurrent payment of employer contributions to the GESB.

The GSS is a defined benefit scheme for the purposes of employees and whole-of-government reporting. However, from the Board's perspective, apart from the transfer benefits, it is a defined contribution plan under AASB 119.

## *Provisions – other*

### *Employment on-costs*

Employment on-costs, including workers' compensation insurance, are not employee benefits and are recognised separately as liabilities and expenses when the employment to which they relate has occurred. Employment on-costs are included as part of 'Other Expenses' and not included as part of the Board's 'Employee benefits expense'. The related liability is included in 'Employment on-costs provision'.



# Notes to the Financial Statements

For the year ended 30 June 2010

## **(m) Superannuation Expense**

The superannuation expense of the defined benefit plans is made up of the following elements:

- Current service cost;
- Interest cost (unwinding of the discount);
- Actuarial gains and losses; and
- Past service cost.

Actuarial gains and losses of the defined benefit plans are recognised immediately as income or expense in the Statement of Comprehensive Income.

The superannuation expense of the defined contribution plans is recognised as and when the contributions fall due.

Refer to note 2(l) 'Provisions – Employee Benefits' under Superannuation.

## **(n) Accrued Salaries**

Accrued salaries (refer to note 16 'Payables') represent the amount due to staff but unpaid at the end of the financial year, as the pay date for the last pay period for that financial year does not coincide with the end of the financial year. Accrued salaries are settled within a fortnight of the financial year end. The Board considers the carrying amount of accrued salaries to be equivalent to its net fair value.

## **(o) Comparative Figures**

Comparative figures are, where appropriate, reclassified to be comparable with the figures presented in the current financial year.

### **3. Disclosure of changes in accounting policy and estimates**

#### **Initial application of an Australian Accounting Standard**

The Board has applied the following Australian Accounting Standards effective for annual reporting periods beginning on or after 1 July 2009 that impacted on the Board.

AASB 101 **Presentation of Financial Statements (September 2007).** This Standard has been revised and introduces a number of terminology changes as well as changes to the structure of the Statement of Changes in Equity and the Statement of Comprehensive Income. It is now a requirement that owner changes in equity be presented separately from non-owner changes in equity. There is no financial impact resulting from the application of this revised Standard.

AASB 2007-10 **Further Amendments to Australian Accounting Standards arising from AASB 101.** This Standard changes the term 'general purpose financial report' to 'general purpose financial statements', where appropriate in Australian Accounting Standards and the *Framework* to better align with IFRS terminology. There is no financial impact resulting from the application of this Standard.



# Notes to the Financial Statements For the year ended 30 June 2010

- AASB 2008-13 **Amendments to Australian Accounting Standards arising from AASB Interpretation 17 – Distributions of Non-cash Assets to Owners [AASB 5 & AASB 110]**. This Standard amends AASB 5 *Non-current Assets Held for Sale and Discontinued Operations* in respect of the classification, presentation and measurement of non-current assets held for distribution to owners in their capacity as owners. This may impact on the presentation and classification of Crown land held by the Board where the Crown land is to be sold by the Department of Regional Development and Lands (formerly Department for Planning and Infrastructure). The Board does not expect any financial impact when the Standard is first applied prospectively.
- AASB 2009-2 **Amendments to Australian Accounting Standards – Improving Disclosures about Financial Instruments AASB 4, AASB 7, AASB 1023 & AASB 1038**. This Standard amends AASB 7 *Financial Instruments: Disclosures* and will require enhanced disclosures about fair value measurements and liquidity risk with respect to financial instruments. There is no financial impact resulting from the application of this Standard.

## Changes in accounting estimates

There were no changes in accounting estimates that will have an effect on the current reporting period.

## Future impact of Australian Accounting Standards not yet operative

The Board cannot early adopt an Australian Accounting Standard unless specifically permitted by TI 1101 *Application of Australian Accounting Standards and Other Pronouncements*. Consequently, the Board has not applied early any of the following Australian Accounting Standards that have been issued that may impact the Board. Where applicable, the Board plans to apply these Australian Accounting Standards from their application date.

		Operative for reporting periods beginning on/after
AASB 2009-11	<i>Amendments to Australian Accounting Standards arising from AASB 9 [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 121, 127, 128, 131, 132, 136, 139, 1023 &amp; 1038 and Interpretations 10 &amp; 12]</i> . The amendment to AASB 7 <i>Financial Instruments: Disclosures</i> requires modification to the disclosure of categories of financial assets. The Board does not expect any financial impact when the Standard is first applied. The disclosure of categories of financial assets in the notes will change.	1 Jan 2013
AASB 1053	<i>Application of Tiers of Australian Accounting Standards</i> . This Standard establishes a differential financial reporting framework consisting of two tiers of reporting requirements for preparing general purpose financial statements.  The Standard does not have any financial impact on the Board. However it may affect disclosures in the financial statements of the Board if the reduced disclosure requirements apply. DTF has not yet determined the application or the potential impact of the new Standard for agencies.	1 Jul 2013
AASB 2010-2	<i>Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements</i> . This Standard makes amendments to many Australian Accounting Standards, including Interpretations, to introduce reduced disclosure requirements into these pronouncements for application by certain types of entities.  The Standard is not expected to have any financial impact on the Board. However this Standard may reduce some note disclosures in financial statements of the Board. DTF has not yet determined the application or the potential impact of the amendments to these Standards for agencies.	1 Jul 2013



# Notes to the Financial Statements For the year ended 30 June 2010

## 4 Licence income

Proceeds from triennial licensing fees are allocated over 36 months from the month of receipt.

Fees relating to the current financial year are recognised as revenue. The balance of the fees are credited into the Revenue received in advance accounts.

Analysis of the fees is as follows:

	2010 \$	2009 \$
Revenue received in advance 1 July balance (current)	96,433	90,764
Revenue received in advance 1 July balance (non current)	79,651	73,143
Cash received during the year	133,264	123,967
<b>Total receipts received</b>	<b>309,348</b>	<b>287,874</b>
<b>Revenue recognised during the year</b>	<b>121,653</b>	<b>111,790</b>
<b>Revenue received in advance</b>	<b>187,695</b>	<b>176,084</b>
<b>Held in</b>		
Revenue received in advance account (current)	103,776	96,433
Revenue received in advance account (non current)	83,919	79,651
<b>Total</b>	<b>187,695</b>	<b>176,084</b>

## 5 Interest Revenue

Interest revenue received from:

	2010 \$	2009 \$
Interest from on call bank accounts	42,326	107,502
Interest from Investment accounts	1,721,502	2,071,730
<b>Total</b>	<b>1,763,828</b>	<b>2,179,232</b>





# Notes to the Financial Statements For the year ended 30 June 2010

## 6 Other revenue

### Other revenue consists of:

	2010 \$	2009 \$
Copy of licence	160	80
Contribution to vehicle use	7,212	2,120
Miscellaneous Income	1,967	12,103
Contribution to insurance	–	59
Recovery of fidelity funds	–	50,000
	<u>9,339</u>	<u>64,362</u>

## 7 Employee benefits expense

The Board procures services from the Department of Commerce under a service delivery agreement. The current arrangement which started in the 1999/2000 financial year is for an all inclusive fixed fee. The wages and salaries figure below represents only that of employees directly employed by the Board.

	2010 \$	2009 \$
Wages and salaries	356,268	373,403
Change in Annual Leave Provisions <sup>(a)</sup>	(5,400)	(3,147)
Change in Long Service Leave Provisions <sup>(a)</sup>	(7,816)	17,632
Superannuation Expense	27,252	28,387
Other staff related expenses <sup>(b)</sup>	39,689	31,798
<b>Total Staff costs</b>	<u>409,993</u>	<u>448,073</u>

<sup>(a)</sup> Includes a superannuation contribution component

<sup>(b)</sup> Other related expenses include training & conferences, travel, vehicles and FBT.

Employment on-costs such as workers' compensation insurance are included at note 12 'Other expenses'. The employment on costs liability is included at note 17 'Provisions'.



# Notes to the Financial Statements For the year ended 30 June 2010

## 8 Supplies and services

	2010 \$	2009 \$
Advertising	–	26,484
Bank charges	425	843
Communications	11,101	3,459
Consultants and contractors fees	217,286	29,176
Consumables	7,333	8,669
Entertainment	1,240	–
Hire charges	–	4,562
Insurance	11,097	7,281
Legal	23,137	90,435
Miscellaneous	1,347	1,002
Printing	6,540	9,429
Professional services	38,296	41,456
Repair and maintenance	673	–
Service Delivery Agreement	1,666,010	1,388,175
Software < \$5,000 & Software Licences	1,155	2,277
Stationery	397	4,046
Sundry assets costing under \$5,000	845	23,942
Website subscription	654	163
	<u>1,987,536</u>	<u>1,641,399</u>

The Service Delivery Agreement costs cover the procurement of services from the Department of Commerce. The current agreement is for a fixed fee which is reviewed annually.



# Notes to the Financial Statements For the year ended 30 June 2010

## 9 Depreciation and amortisation expense

### Depreciation

Computer Hardware

Office & other equipment

**Total depreciation**

**2010**  
**\$**

**2009**  
**\$**

—  
6,836  
6,836

—  
15,630  
15,630

## 10 Accommodation expenses

Occupancy costs and parking

**2010**  
**\$**

**2009**  
**\$**

262  
262

228  
228

## 11 Grants

### Education grants

West Coast Property Training

AAMC Training Group

Australian Institute of Conveyancers

Kaplan Education

Individual agents

**2010**  
**\$**

**2009**  
**\$**

224,609  
—  
10,000  
—  
1,867  
236,476

101,200  
28,836  
—  
1,533  
7,000  
138,569



# Notes to the Financial Statements For the year ended 30 June 2010

## 12 Other expenses

	2010 \$	2009 \$
Audit fees	23,000	23,000
Employment on costs <sup>(a)</sup>	(1,460)	4,103
Refund of previous years agents trust interest	–	9,376
	<u>21,540</u>	<u>36,479</u>

<sup>(a)</sup> Includes workers' compensation insurance and other employment on-costs. The on-costs liability associated with the recognition of annual and long service leave liability is included at note 17 'Provisions'. Superannuation contributions accrued as part of the provision for leave are employee benefits and are not included in employment on-costs.

## 13 Receivables

	2010 \$	2009 \$
<u>Current</u>		
Accounts receivable	4,662	94,227
Accrued agents trust account interest	337,864	229,844
Accrued investment interest	496,978	332,992
GST recoverable	852	10,664
Total	<u>840,356</u>	<u>667,727</u>

## 14 Property, Plant and equipment

	2010 \$	2009 \$
<u>Office &amp; Other Equipment</u>		
At cost	64,099	52,315
Accumulated Depreciation	(52,464)	(45,627)
Accumulated Impairment Losses	–	–
	<u>11,635</u>	<u>6,688</u>
Total Plant & Equipment	<u>11,635</u>	<u>6,688</u>



# Notes to the Financial Statements For the year ended 30 June 2010

## 14 Property, Plant and equipment (continued)

Reconciliations of the carrying amount of plant and equipment at the beginning and end of the reporting period are set out below.

	2010 \$	2009 \$
<b>Office &amp; Other Equipment</b>		
Carrying amount at start of year	6,688	22,318
Additions	11,783	—
Disposals	—	—
Accumulated depreciation on disposals	—	—
Depreciation	(6,836)	(15,630)
Carrying amount at end of year	11,635	6,688
<b>Total Plant and equipment</b>	<b>11,635</b>	<b>6,688</b>

## 15 Impairment of assets

There were no indications of impairment to plant and equipment and intangible assets at 30 June 2010.

The Board held no goodwill or intangible assets with an indefinite useful life during the reporting period, and at the end of the reporting period there were no intangible assets not yet available for use.

There were no surplus assets at 30 June 2010 held for sale or write off.

## 16 Payables

	2010 \$	2009 \$
<b>Current</b>		
Accrued expenses		
Trade payables	178,258	194,035
Accrued salaries and superannuation	6,062	4,726
Accrued expenses	23,000	23,000
GST Payable	197	197
<b>Total</b>	<b>207,517</b>	<b>221,958</b>



# Notes to the Financial Statements For the year ended 30 June 2010

## 17 Provisions

	2010 \$	2009 \$
<u>Current</u>		
Employee Benefits Provisions		
Annual leave <sup>(a)</sup>	12,606	18,006
Long service leave <sup>(b)</sup>	17,913	16,941
Superannuation	2,690	3,211
	<u>33,209</u>	<u>38,158</u>
Other provisions		
Employment on costs <sup>(c)</sup>	2,207	3,367
Total	<u>35,416</u>	<u>41,525</u>
<u>Non Current</u>		
Employee Benefits Provisions		
Long service leave <sup>(b)</sup>	41,976	50,764
Superannuation	2,906	3,472
	<u>44,882</u>	<u>54,236</u>
Other provisions		
Employment on costs <sup>(c)</sup>	197	497
Total	<u>45,079</u>	<u>54,733</u>





# Notes to the Financial Statements For the year ended 30 June 2010

## 17 Provisions (continued)

	2010 \$	2009 \$
(a) Annual leave liabilities have been classified as current as there is no unconditional right to defer settlement for at least 12 months after the reporting period. Assessments indicate that actual settlement of the liabilities will occur as follows:		
Within 12 months of the end of the reporting period	7,424	10,753
More than 12 months after the reporting period	5,182	7,253
	<u>12,606</u>	<u>18,006</u>

(b) Long service leave liabilities have been classified as current where there is no unconditional right to defer settlement for at least 12 months after the reporting period.  
Assessments indicate that actual settlement of the liabilities will occur as follows:

	2010 \$	2009 \$
Within 12 months of the end of the reporting period	23,441	25,640
More than 12 months after the reporting period	36,448	42,065
	<u>59,889</u>	<u>67,705</u>

(c) The settlement of annual and long service leave liabilities gives rise to the payment of employment on-costs including workers' compensation insurance. The provision is the present value of expected future payments. The associated expense, apart from the unwinding of the discount (finance cost), is included at note 12 'Other expenses'.

### Movements in Other Provisions

Movements in each class of provisions during the financial year, other than employee benefits, are set out below.

#### Employment on-cost provision

	2010 \$	2009 \$
Carrying amount at start of year	3,864	3,891
Additional provisions recognised	(1,460)	(27)
Carrying amount at end of year	<u>2,404</u>	<u>3,864</u>



# Notes to the Financial Statements For the year ended 30 June 2010

## 18 Other liabilities

### Current

	2010 \$	2009 \$
Unclaimed monies	150	150
Total	150	150

## 19 Notes to the Statement of Cash Flows

Cash resources are held exclusively for use by the Settlement Agents Supervisory Board under the provisions of the Settlement Agents Act 1981.

### Reconciliation of cash

Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows:

	2010 \$	2009 \$
<b>Cash and cash equivalents at bank</b>		
Education and General Purpose Account	578,797	576,940
Fidelity Guarantee Account (Restricted cash)	291,783	267,805
Board Interest Account	500	500
	871,080	845,245
<b>Cash and cash equivalents held with Treasury</b>		
Education and General Purpose Account	18,140,000	18,140,000
Fidelity Guarantee Account (Restricted cash)	26,690,000	23,990,000
	44,830,000	42,130,000
	45,701,080	42,975,245
Cash and cash equivalents	18,719,297	18,717,440
Restricted cash and cash equivalents	26,981,783	24,257,805
<b>Total cash and cash equivalents</b>	45,701,080	42,975,245



# Notes to the Financial Statements For the year ended 30 June 2010

## 19 Notes to the Statement of Cash Flows (continued)

### Reconciliation of profit to net cash flows provided by operating activities

	2010 \$	2009 \$
Profit	2,922,004	4,224,873
Non-cash items:		
Depreciation and amortisation expense	6,836	15,630
Net (gain)/loss on sale of plant & equipment	—	—
(Increase)/decrease in assets:		
Current receivables <sup>(c)</sup>	(172,629)	578,773
Increase/(decrease) in liabilities:		
Current Payables <sup>(c)</sup>	(14,441)	31,216
Current Provisions	(6,109)	(5,298)
Revenue received in advance, current liabilities	7,342	5,669
Other current liabilities	—	—
Non current provisions	(9,653)	20,854
Revenue received in advance, non current liabilities	4,268	6,507
Net GST receipts/(payments) <sup>(a)</sup>	9,811	3,791
Change in GST receivables/(payables) <sup>(b)</sup>	(9,811)	(3,791)
<b>Net cash provided by operating activities</b>	<b>2,737,618</b>	<b>4,878,224</b>

<sup>(a)</sup> This is the net GST paid/received, ie cash transactions

<sup>(b)</sup> This reverses out the GST in receivables and payables

<sup>(c)</sup> Note that the Australian Taxation Office (ATO) receivable/payable in respect of GST and the receivable/payable in respect of the sale/purchase of non-current assets are not included in these items as they do not form part of the reconciling items.



# Notes to the Financial Statements For the year ended 30 June 2010

## 20 Contingent Liabilities and Contingent Assets

### Contingent Liabilities

In addition to the liabilities included in the financial statements the Board is aware of no claims (2009: 1) against the Fidelity Guarantee Account totalling \$ nil (2009: \$300,000) for which no liability has been admitted by the Board.

### Contingent Assets

The Board does not have any contingent assets in addition to the assets included in the financial statements.

## 21 Remuneration of members of the Board and senior officers

### Remuneration of members of the Board

The number of members of the Board, whose total of fees, salaries, superannuation, non-monetary benefits and other benefits for the financial year, fall within the following bands are:

	2010	2009
\$0 – \$10,000	9	8
\$10,001 – \$20,000	–	1
The total remuneration of members of the Board:	<u>31,314</u>	<u>38,617</u>

The total remuneration includes the superannuation expense incurred by the Board in respect of members of the Board.

No members of the Board are members of the Pension Scheme.

### Remuneration of Senior Officers

The number of senior officers, other than senior officers reported as members of the Board, whose total of fees, salaries, superannuation, non-monetary benefits and other benefits for the financial year, falls within the following bands are:

	2010	2009
\$20,001 – \$30,000	1	–
\$30,001 – \$40,000	–	1
The total remuneration of senior officers:	<u>25,683</u>	<u>35,783</u>

The total remuneration includes the superannuation expense incurred by the Board in respect of senior officers other than senior officers reported as members of the Board.

No senior officers are members of the Pension Scheme.

The Board procures services from the Department of Commerce. The number of senior officers providing these services are included in the annual report of the Department.



# Notes to the Financial Statements For the year ended 30 June 2010

## 22 Remuneration of Auditor

Remuneration to the Auditor General in respect to the audit for the current financial year is as follows;

	2010 \$	2009 \$
Auditing the accounts, financial statements and performance indicators	23,000	23,000

## 23 Segment (service) information

The service provided by the Board is 'Regulation' or 'regulatory services'. As there is only one service for the Board there is no separate reporting under services.

## 24 Supplementary financial information

### Write-offs

The Board approve write-offs totalling \$ nil (2009: \$1,073) during the financial year.

## 25 Commitments

### Lease commitments

Commitments in relation to leases contracted for at the end of the reporting period but not recognised in the financial statements are payable as follows:

	2010 \$	2009 \$
Within 1 year	8,112	985
Later than 1 year and not later than 5 years	13,182	—
Later than 5 years	—	—
	<u>21,294</u>	<u>985</u>
Representing:		
Non-cancellable operating leases	<u>21,294</u>	<u>985</u>

These commitments are all inclusive of GST for vehicle leases paid monthly in arrears. The lease terms are 12 to 36 months and are with StateFleet.

The Board does not have any capital or finance lease commitments contracted for at the end of the reporting period not recognised as liabilities.



# Notes to the Financial Statements

For the year ended 30 June 2010

## 26 Special purpose accounts

### Special Purpose Account [section 16(1)(c)] of FMA

The Settlement Agents Supervisory Board Treasury Trust Account

The purpose of the trust account is to hold moneys:

- 1) from the executor(s) or trustees of a settlement agent as defined by section 3 of the *Settlement Agents Act 1981* (the Act);
- 2) from a liquidator appointed to a settlement agent as defined by section 3 of the Act;
- 3) from a supervisor appointed to a settlement agent as defined by section 3 of the Act;
- 4) from a trustee of a bankrupt estate of a settlement agent as defined by section 3 of the act;
- 5) by order of the State Administrative Tribunal or Court of competent jurisdiction; or
- 6) for the purposes of the operations of the SASB.

The monies detailed below are not included in the Board's financial statements as they are being held in trust pending distribution and form no part of the financial operations of the Board.

	2010 \$	2009 \$
Balance at the start of the year	1,328	—
Receipts	42	1,328
Payments	—	—
<b>Balance at the end of the year</b>	<b>1,370</b>	<b>1,328</b>

## 27 Events occurring after the balance sheet date

The Board is not aware of any events occurring after the end of the reporting period that materially affect these financial statements.





# Notes to the Financial Statements For the year ended 30 June 2010

## 28 Explanatory statement

Significant variations between estimates and actual results as presented in the Statement of Comprehensive Income are shown below. Significant variations are considered to be those greater than 10% and \$50,000

### *a) Significant variations between estimate and actual for the financial year*

	2010 Estimate \$	2010 Actual \$	Variance \$
<b>Income</b>			
Agents trust account interest	1,762,500	3,658,258	1,895,758
Interest revenue	1,204,000	1,763,828	559,828
<b>Expenses</b>			
Supplies and Services	1,768,158	1,987,536	219,378
Fidelity payments	892,000	–	(892,000)

### **Agents trust account interest**

The estimated income from agents trust account interest was prepared when interest rates were at historical lows and market indications were that they would remain at those levels for some time. However, interest rates increased resulting in a higher level income than was anticipated.

### **Interest revenue**

The variation to the estimate result for interest revenue is the result of two factors:

- 1) higher rates of interest than anticipated and
- 2) higher levels of retained revenue than anticipated due to a better than expected financial result for the year.

### **Supplies and Services**

Expenditure on supplies and services were higher than expected due to:

- 1) development costs associated with licence processing via Australia Post and
- 2) higher than expected costs associated with the service delivery agreement with the Department of Commerce.

### **Fidelity payments**

The Board allowed in the budget full payment of contingent liabilities for fidelity claims. No claims were approved during the year resulting in no expenditure for the year on this item.



# Notes to the Financial Statements For the year ended 30 June 2010

## 28 Explanatory statement (continued)

### *b) Significant variations between actual results for actual year and prior year actual*

	2010 \$	2009 \$	Variance \$
<b>Income</b>			
Agents trust account interest	3,658,258	4,135,587	(477,329)
Interest revenue	1,763,828	2,179,232	(415,404)
Other revenues	9,339	64,362	(55,023)
<b>Expenses</b>			
Supplies and services	1,987,536	1,641,399	346,137
Grants	236,476	138,569	97,907

#### **Agents trust account interest**

Income from Agents Trust Accounts is lower than the previous year due to lower interest rates during the 2009/10 financial year compared to the 2008/09 year.

#### **Interest Revenue**

Income from interest is lower than the previous year due to lower interest rates.

#### **Other Revenues**

The previous years revenue for this item was high due to a fidelity payment recovery. The current years revenue for this item has returned to a more normal situation.

#### **Supplies and services**

Expenditure on supplies and services were higher than the previous year due to:

- 1) development costs related to licence processing via Australia Post and
- 2) higher costs associated with the service delivery agreement with the Department of Commerce.

#### **Grants**

The increase in grants over last year is the result of the Board contribution more towards continuous professional development (education grants).



# Notes to the Financial Statements For the year ended 30 June 2010

## 29 Financial instruments

### *(a) Financial Risk Management Objectives and Policies*

Financial instruments held by the Board are cash and cash equivalents, restricted cash and cash equivalents, receivables and payables. The Board has limited exposure to financial risks. The Board's overall risk management program focuses on managing the risks identified below.

#### Credit risk

Credit risk arises when there is the possibility of the Board's receivables defaulting on their contractual obligations resulting in financial loss to the Board.

The maximum exposure to credit risk at the end of the reporting period in relation to each class of recognised financial assets is the gross carrying amount of these assets inclusive of any provisions for impairment, as shown in the table at Note 29(c) 'Financial Instruments Disclosures' and in note 13 'Receivables'.

The Board trades only with recognised, creditworthy third parties. The Board has policies in place to ensure that services are rendered to customers with an appropriate credit history. In addition, receivable balances are monitored on an ongoing basis with the result that the Board's exposure to bad debts is minimal. At the end of the reporting period, there were no significant concentrations of credit risk.

#### Liquidity risk

Liquidity risk arises when the Board is unable to meet its financial obligations as they fall due. The Board is exposed to liquidity risk through its trading in the normal course of business.

The Board has appropriate procedures to manage cash flows by monitoring forecast cash flows to ensure that sufficient funds are available to meet its commitments.

#### Market risk

Market risk is the risk that changes in the market prices such as foreign exchange rates and interest rates will affect the Board's income or the value of its holdings of financial instruments.

The Board has no borrowings and does not trade in foreign currency and is not materially exposed to other price risks.

The Board's exposure to market risk for changes in interest rates relate primarily to cash and cash equivalent holdings. Variations in interest rates have a direct impact on the Board's earnings.

Other than as detailed in the interest rate sensitivity analysis table at Note 29(c), the Board has limited exposure to interest rate risk.



# Notes to the Financial Statements For the year ended 30 June 2010

## 29 Financial instruments (continued)

### (b) Categories of Financial Instruments

In addition to cash, the carrying amounts of each of the following categories of financial assets and financial liabilities at the end of the reporting period are as follows:

	2010 \$	2009 \$
<b>Financial Assets</b>		
Cash and cash equivalents	18,719,297	18,717,440
Restricted cash and cash equivalents	26,981,783	24,257,805
Receivables <sup>(a)</sup>	840,356	667,727
<b>Financial Liabilities</b>		
Financial liabilities measured at amortised cost	395,362	398,192

<sup>(a)</sup> The amount of receivables excludes GST recoverable from the ATO (statutory receivable)

### (c) Financial Instruments Disclosures

#### Credit Risk and Interest Rate Risk Exposure

The following table discloses the Boards maximum exposure to credit risk and interest rate exposures of financial assets. The Board's maximum exposure to credit risk at the end of the reporting period is the carrying amount of the financial assets as shown below.

All financial assets and liabilities as at the end of the reporting period had a maturity date less than 3 months. For this reason a maturity analysis has not been provided in the tables.

The Board does not hold any collateral as security or other credit enhancements relating to the financial assets it holds.

The Board does not hold any financial assets that had to have their terms renegotiated that would have otherwise resulted in them being past due or impaired.



# Notes to the Financial Statements For the year ended 30 June 2010

## 29 Financial instruments (continued)

	Interest rate exposures of financial assets			
	Weighted Avge Effective Int Rate %	Carrying Amount \$	Variable Interest Rate \$	Non Interest Bearing \$
Financial Assets				
<b>2010</b>				
Cash and cash equivalents	4.5%	18,719,297	18,719,297	—
Restricted cash and cash equivalents	4.5%	26,981,783	26,981,783	—
Receivables <sup>(a)</sup>		4,662	—	4,662
		<u>45,705,742</u>	<u>45,701,080</u>	<u>4,662</u>
<b>2009</b>				
Cash and cash equivalents	3.2%	18,717,440	18,717,440	—
Restricted cash and cash equivalents	3.2%	24,257,805	24,257,805	—
Receivables <sup>(a)</sup>		94,227	—	94,227
		<u>43,069,472</u>	<u>42,975,245</u>	<u>94,227</u>

<sup>(a)</sup> The amount of receivables excludes the GST recoverable from the ATO (statutory receivable)

The Board does not have any past due or impaired financial assets.



# Notes to the Financial Statements For the year ended 30 June 2010

## 29 Financial instruments (continued)

### Liquidity Risk

The following table details the contractual maturity analysis for financial liabilities. The contractual maturity amounts are representative of the undiscounted amounts at the end of the reporting period. The table includes interest and principal cash flows. An adjustment has been made where material.

#### Interest rate exposures of financial liabilities

	Weighted Avge Effective Int Rate %	Interest Rate Exposure		Maturity Date		
		Carrying Amount \$	Non Interest Bearing \$	Up to 12 months \$	1 – 5 years \$	More than 5 years \$
Financial Liabilities						
<b>2010</b>						
Payables		207,320	207,320	207,320	–	–
Licence revenue received in advance		187,695	187,695	103,776	83,919	–
		<u>395,015</u>	<u>395,015</u>	<u>311,096</u>	<u>83,919</u>	<u>–</u>
<b>2009</b>						
Payables		221,761	221,761	221,761	–	–
Licence revenue received in advance		176,084	176,084	96,433	79,651	–
		<u>397,845</u>	<u>397,845</u>	<u>318,194</u>	<u>79,651</u>	<u>–</u>

The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities.





# Notes to the Financial Statements For the year ended 30 June 2010

## 29 Financial instruments (continued)

### Interest Rate Sensitivity Analysis

The following table represents a summary of the interest rate sensitivity of the Board's financial assets and liabilities at the end of the reporting period on the surplus for the period and equity for a 100 basis point change in interest rates. It is assumed that the change in interest rates is held constant throughout the reporting period.

		+100 Basis Point Change		-100 Basis Point Change	
2010	Carrying Amount \$	Profit \$	Equity \$	Profit \$	Equity \$
Financial Assets					
Cash assets	18,719,297	(187,193)	(187,193)	187,193	187,193
Restricted cash assets	26,981,783	(269,818)	(269,818)	269,818	269,818
Financial Liabilities					
The Board does not have any Financial Liabilities subject to interest rate sensitivity.					
Total Increase/(Decrease)		<u>(457,011)</u>	<u>(457,011)</u>	<u>457,011</u>	<u>457,011</u>
2009					
Financial Assets					
Cash assets	18,717,440	(187,174)	(187,174)	187,174	187,174
Restricted cash assets	24,257,805	(242,578)	(242,578)	242,578	242,578
Financial Liabilities					
The Board does not have any Financial Liabilities subject to interest rate sensitivity.					
Total Increase/(Decrease)		<u>(429,752)</u>	<u>(429,752)</u>	<u>429,752</u>	<u>429,752</u>

### Fair Values

All financial assets and liabilities recognised in the Statement of Financial Position, whether they are carried at cost or fair value, are recognised at amounts that represent reasonable approximation of fair value unless otherwise stated in the applicable notes.



# Additional Key Performance Indicator Information

## Certification of Key Performance Indicators

We hereby certify that the key performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Board's performance, and fairly represent the performance of the Board for the financial year ended 30 June 2010.



Mirina Muir  
Chair

Date: 1 September 2010



Valerie Haskins  
Member

Date: 1 September 2010



# Additional Key Performance Indicator Information

## Detailed information in support of Key Performance Indicators

### Statutory role of the Board

The Board acts in the public interest as the regulatory authority for the settlement industry in Western Australia. A statutory function required of the Board is to supervise persons who carry on the business of, or hold themselves out to be, settlement agents.

### Outcome

At the highest level, the desired outcome of the Board is that the people of Western Australia, both the industry and the public, have confidence in the settlement industry.

### Effectiveness indicator

*The extent to which settlement agents and others comply with the requirements of the Settlement Agents Act 1981, the Settlement Agents Regulations 1982 and the Settlement Agents' Code of Conduct 1982 in relation to the management of their trust accounts.*

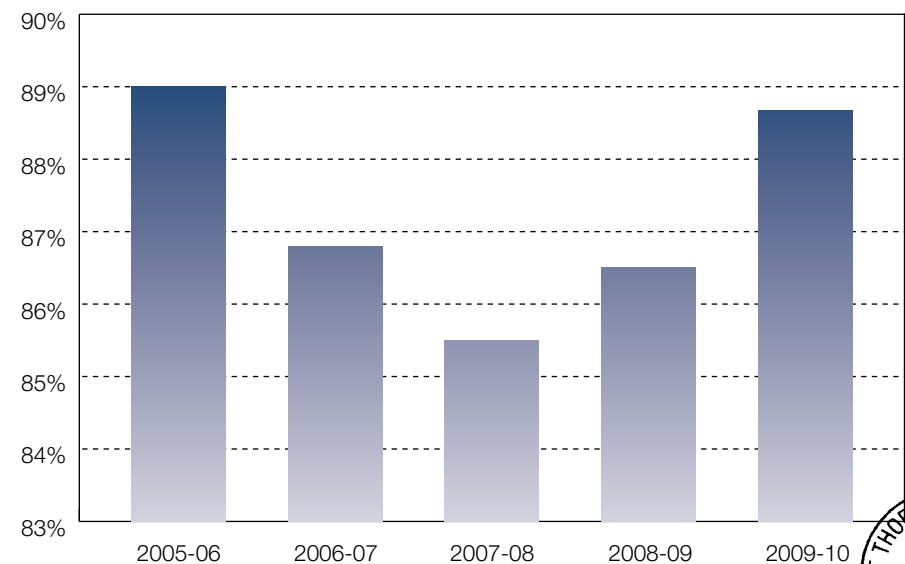
The Board aims to positively influence the behaviour of industry participants through effective compliance activities. The extent to which the people of Western Australia can be confident that the settlement industry operates in accordance with regulatory requirements is assessed by the level of compliance relating to the management of trust accounts.

The Board's experience is that the extent of compliance in respect to trust accounts is the best single test providing a reliable indication of the extent to which agents are generally complying with the requirements of the Act. Breaches in relation to the management of trust accounts usually indicate other problems or breaches that may be occurring within an agency.

An independent auditor, who has conducted an examination of an agent's trust account management, provides the Board with an audit opinion. An unqualified opinion is issued when the auditor considers the agent's trust accounts are, and have been during the period of the audit, kept in order. One aim of independent scrutiny is to provide a level of confidence regarding the management of the trust accounts. Therefore, the extent to which auditors submit unqualified audit opinions in relation to agents' trust accounts is an indication of the degree of confidence that can be held in the industry.

### Measure

The percentage of agents submitting an unqualified audit or statutory declaration



# Additional Key Performance Indicator Information

	2005—06	2006—07	2007—08	2008—09	2009—10
Unqualified audit reports	256	242	230	243	275
Qualified audit reports	39	54	60	56	49
Statutory declarations	100	111	124	122	124
No audit reports	5	0	0	1	2
Total agents	400	407	414	422	450
Percentage of agents submitting an unqualified audit or statutory declaration	89	86.73	85.51	86.49	88.67

## Notes to the indicator

The Act requires agents to manage monies received for or on behalf of their principals (clients) through a trust account. If a licensed agent does not receive or hold any money on behalf of a person in the reporting period then they must submit a statutory declaration confirming this to be deemed compliant. For example, where an individual licensee works for a company it is the company's trust accounts that are audited. Those agents who have a current triennial certificate and are not trading and are not in *bona fide* control or a branch manager must submit a statutory declaration.

The Board places significant reliance on audit reports to ensure that agents maintain their trust accounts in accordance with the statutory requirements. Since 2001–02 the Board has maintained a 'no tolerance' policy towards agents and auditors who fail to comply with the trust account auditing provisions of the Act.

The Board will commence proceedings appropriate for such breaches or non-compliance with the Act. If this involves the State Administrative Tribunal which on application finds that there is proper cause for disciplinary action against the agent, sanctions may include a reprimand or caution, a fine, a suspension or cancellation of the agent's licence or triennial certificate, and a temporary or permanent disqualification from holding a licence or triennial certificate.

This year there were 28 more active agents conducting settlement transactions than last year, with 32 more unqualified audits and seven less qualified audits. The proportion of settlement agents submitting unqualified audits or statutory declarations has increased from 86.49 per cent last year to 88.67 per cent this year.

## Key service

The key service provided by the Board is regulation of the settlement industry through the discharge of the Board's statutory functions.

The Board undertakes a range of activities to ensure both agents and the public are aware of their rights and responsibilities, licenses settlement agents, takes action to ensure compliance with the Act, the Regulations and the Code of Conduct, and administers the Fidelity Guarantee Account.

## Efficiency indicator

*The average cost per licensed agent, of regulating the settlement industry.*

The Board provides a range of services aimed to ensure that settlement agents comply with the requirements of the Act. This indicator measures the efficiency with which this is achieved.



# Additional Key Performance Indicator Information

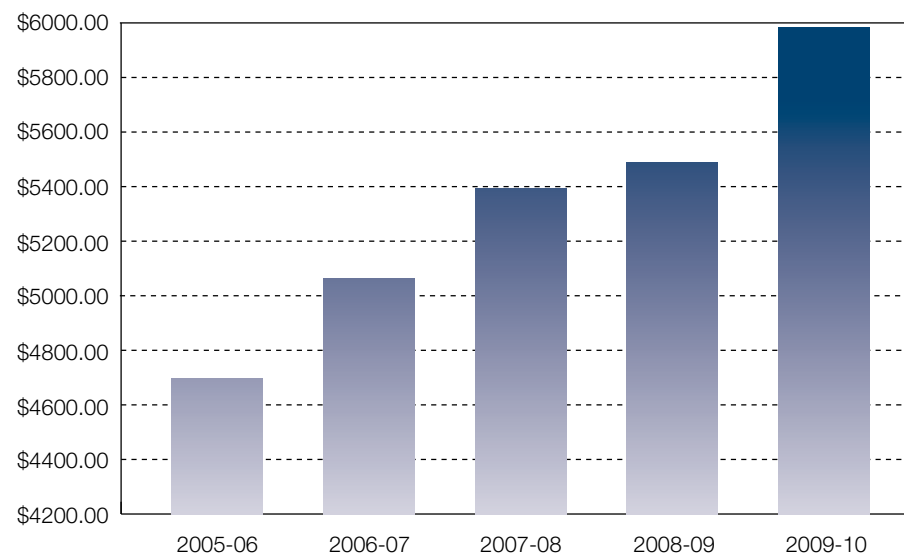
## Measure

Total cost of regulating the industry divided by the number of active licensed agents in Western Australia.

	2005-06	2006-07	2007-08	2008-09	2009-10
Annual Cost*	\$1,879,515	\$2,060,772	\$2,232,614	\$2,315,788	\$2,692,824
Active Licensed Agents	400	407	414	422	450
Cost per Active Licensed Agent	\$4,698.79	\$5,063.32	\$5,392.79	\$5,487.65	\$5,984.05

\* The annual cost of regulating the settlement industry has been calculated using the total annual expenditure of the Board less Fidelity Guarantee Account payments made in that financial year. Fidelity Guarantee Account payments have been excluded as these payments relate to the reimbursement of losses that were incurred by the defalcation of a licensed settlement agent in previous financial years and therefore do not reflect on the true annual cost of regulating the settlement industry.

## Cost per licensed agent of regulating the settlement industry



## Notes to the indicator

The efficiency indicator is based on the cost of delivering the service per each active licensed settlement agent. In the 2009–10 financial year a total of \$2,692,824 was expended on regulating an industry with 450 active licensed agents.

This year has seen the average cost of regulating the settlement industry for each licensed agent increase from \$5,487.65 in 2008–09 to \$5,984.05 in this financial year. This was mainly due to an increase in Service Delivery costs, education expenses, consultants' and contractors' fees and extra expense incurred due to the Australia Post Licensing Project and the CPD Online Project.

The Board remains committed to ensuring the community of Western Australia has confidence in the settlement industry, and will allocate sufficient resources to meet the expectations and demands of the community.





# Ministerial directives

The Chair of the Board was advised, by letter received 21 April 2009, to take into account the Minister's review of boards within the Consumer Protection portfolio when considering future planning. The Minister expressed his belief that "it would be inappropriate to make significant changes to the operation of (the) Board over the next 6-12 months".

Although this directive (delivered in the context of the Premier's announcement in March 2009 of the State Government's intention to reduce the number of existing boards and committees) was conveyed to the Board prior to the reporting period,

for the first half of the financial year it served as a precursor to the Minister's later announcement (on 27 January 2010) that legislation would be introduced in Parliament to abolish the Board by 1 July 2011.

While the Board's abolition is not yet an absolute certainty, discussion between the Board and the Department of Commerce commenced in the second half of the reporting period regarding what is considered an inevitable handover of duties.

# Other financial disclosures

## Pricing policies of services provided

The Board conducted its annual review of its licensing fees in accordance with the *Financial Management Act 2006*. This review was in line with the State Government's policy that any increases in fees are to be on a cost recovery basis. The Board's recommendation that the fees be increased by the agreed Consumer Price Index of 2.1 per cent was approved by the Minister for Commerce and was submitted for formal approval and amendments to the relevant regulations. The fee increase was formally approved and was effective from 1 July 2010.

## Capital Works

### Capital projects completed

Project title	Estimated cost	Eventual cost
Australia Post Interface Project	\$340,000.00	\$396,039.00*
CPD Online Project	\$317,616.00	\$297,044.32*

\* Total cost of project was shared equally with the Real Estate and Business Agents Supervisory Board

## Employment and industrial relations

Employee category	2008–09	2009–10
Full-time permanent	8.8	8.8
Full-time contract	0.6	0.6
Part-time measured on a FTE basis	0	0
On secondment	0	0

## Staffing policies

The Board, with assistance from staff in the Proactive Compliance Section, conducted two training sessions for Real Estate Branch staff to ensure provision of consistent, accurate and high quality advice and service is delivered to industry members and the public on behalf of the Board.

## Industrial relations

The Board was not involved in any industrial disputes.

## Workers' compensation

The Board did not receive any workers' compensation claims in this reporting period, as in the previous year.



# Governance disclosures

## Contracts with senior officers

At the date of reporting, other than normal contracts of employment of service, no senior officers, or firms of which senior officers are members, or entities in which senior officers have substantial interests, had any interests in existing or proposed contracts with the Board and senior officers.

## Freedom of Information requests

The *Freedom of Information Act 1992* is an Act to provide for public access to documents, and to enable the public to ensure that personal information in documents is accurate, complete, up to date and not misleading, and for related purposes. The objectives of this Act are achieved by creating a general right to apply for access to documents relating to the Board and its operations. The Board endeavours to make available as much information as possible outside the Freedom of Information process. In the year 2009–10, the Board received one request for information under the *Freedom of Information Act 1992*.

In accordance with section 96, an agency must publish an information statement providing details of its Freedom of Information policy.

The Board adopts the information statement of the Consumer Protection Division of the Department of Commerce.

This information statement is available from its website at [www.commerce.wa.gov.au](http://www.commerce.wa.gov.au).

# Other legal requirements

## Advertising

In accordance with section 175ZE of the *Electoral Act 1907*, the Board incurred expenditure in the reporting period 2009–10 totalling \$6,875.00.

Organisation type	Name	Amount
Advertising agencies	Linkletters	\$6,875.00
Market research organisations		\$0.00
Polling organisations		\$0.00
Direct mail organisations		\$0.00
Media advertising organisations		\$0.00

## Disability Access and Inclusion Plan

The Board is not a public authority for the purposes of Schedule 1 of the Disability Services Regulations 2004; however, it acknowledges and supports the principles applicable to people with disabilities stated in Schedule 1 of the *Disability Services Act 1993*. Its *Disability Access and Inclusion Plan 2007-2011* expresses the Board's commitment to ensuring that services are delivered effectively to its employees, customers and the wider community. A copy of this plan is available on the Board's website.

## Compliance with Public Sector Standards and ethical codes

The Board is required to comply with the Public Sector Standards in Human Resource Management and the Western Australian Public Sector Code of Ethics in its dealings with staff. During 2009–10, the Board did not receive any applications for breaches of the standards.

Board members and staff are required to comply with the Code of Conduct for Board Members and Officers 2007 (updated January 2008). The Code of Conduct for Board Members and Officers 2007 sets standards concerning the Board's operational requirements and expected behaviour of its members and staff as they carry out their day-to-day work. It also provides guidance and practical assistance on what to do when faced with an ethical issue. A current electronic version of this document is available on the Board's website.

When the Board is in session, members are required to act in accordance with their own independent views and experiences, in the light of the role and purpose of the Board.

Members should not perform their duties in a manner that represents or protects the interests of any particular organisation with which they are associated.

## Recordkeeping plan

The Board is required to have a recordkeeping plan as a government organisation for the purposes of Schedule 1 of the *State Records Act 2000*. As the Department of Commerce provides the Board with a range of services through a Service Delivery Agreement, the Board relies on the department's plan, in principle, for document storage and records management. Please refer to the section 'Recordkeeping plan' in the *Department of Commerce Annual Report 2009–10* for further information.

# Government policy requirements

## Substantive equality

The Department of Commerce provides the Board with a range of services through a Service Delivery Agreement and is required to report on the progress achieved in implementing the Policy Framework for Substantive Equality. Please refer to the section 'Substantive equality' in the *Department of Commerce Annual Report 2009–10* for further information.

## Occupational safety, health and injury management

In carrying out its statutory functions and in its role as an employer the Board is committed to providing a safe working environment and complies with the injury management requirements of the *Workers' Compensation and Injury Management Act 1981*.

Under its Occupational Safety and Health Management Plan the Board commits to providing ongoing safety checks and basic first aid and occupational safety and health awareness training to its employees. The Board also consults with staff on Occupational Safety and Health matters at each of its monthly meetings.

Board employees have the opportunity to elect an Occupational Safety and Health Representative in accordance with the *Occupational Safety and Health Act 1984*.

The Board Director is responsible for ensuring that Board employees comply with Occupational Safety and Health requirements. The Board Director and the Occupational Safety and Health Representative conduct regular workplace safety checks and regularly monitor developments in health and safety legislation and management systems.

The Board also complies with the Department of Commerce (the department) injury management system which ensures that injury management intervention occurs quickly and properly, so that injured employees can remain at work or return to work at the earliest appropriate time.

The department's occupational safety and health system and injury management system are available to employees on the department's intranet site and communicated as part of occupational safety and health training.

Board employees have the opportunity to access the Employee Assistance Program in the form of confidential counselling services, which are provided free of charge.

An external accredited assessment of occupational safety and health management systems was conducted in April 2008 that included a summary of findings.

### Report on annual OSH performance 2009–10:

Indicator	Target 2009–10	Result 2009–10
Number of fatalities	None	None (0)
Lost time injury/disease (LTI/D) incidence rate	None or 10 per cent reduction on previous year	None (0)
Lost time injury severity rate	None or 10 per cent improvement on previous year	None (0)
Percentage of injured workers returned to work within 28 weeks	Actual percentage result to be reported	None (0)
Percentage of managers trained in occupational safety, health and injury management responsibilities	Greater than or equal to 50 per cent	100%

# Appendix

The following table provides details and results of concluded State Administrative Tribunal disciplinary matters during the period 1 July 2009 – 30 June 2010.

VR Number	Respondents	Findings	Penalty	Costs
166 of 2006	Property Settlement Services Pty Ltd	<p>The respondent:</p> <p>(a) acted and continued to act on behalf of the buyer in the settlement of a real estate transaction when there was a conflict or foreseeable conflict between its duties to the buyer and the interests of Fini Villages contrary to rule 9 of the Code of Conduct;</p> <p>(b) acted and continued to act on behalf of the sellers in the settlement of a real estate transaction when there was a conflict or foreseeable conflict between its duties to the seller and the interests of Fini Villages contrary to rule 9 of the Code of Conduct;</p> <p>(c) acted and continued to act on behalf of the buyer without his informed consent, when there was a conflict or foreseeable conflict between its duties to the seller and the interests of Fini Villages contrary to rule 5 of the Code of Conduct; and</p> <p>(d) acted and continued to act on behalf of the sellers in the settlement of a real estate transaction when there was a conflict or foreseeable conflict between its duties to the seller and the interests of Fini Villages contrary to rule 5 of the Code of Conduct.</p>	\$10,000 in clear funds within 28 days of the date of the order failing which their licence and triennial certificate will be suspended until payment is made.	\$8,000 in clear funds within 28 days of the date of the order failing which their licence and triennial certificate will be suspended until payment is made.

# Appendix

VR Number	Respondents	Findings	Penalty	Costs
117 of 2009	Gordon Andrew Poulton	Proper cause exists for disciplinary action against the respondent pursuant to section 84(2) of the Act.	At time of compilation the application was listed for a directions hearing to commence on 3 August 2010 to make orders for the filing of submissions and, if necessary, a further hearing in relation to any action which should be taken by the Tribunal against the respondent pursuant to section 84(1) of the Act.	
17 of 2010	Precision Settlements Pty Ltd and Kylie Anne Kursar	<p>The first respondent:</p> <p>(a) failed to recommend to its client that they seek legal advice when it became prudent to do so, contrary to rule 11 of the Code of Conduct; and</p> <p>(b) failed to communicate all pertinent facts to its client, contrary to rule 16 of the Code of Conduct.</p> <p>The second respondent failed to carry out the services of a settlement agent efficiently, contrary to rule 15 of the Code of Conduct.</p>	Both respondents to pay to the applicant a fine of \$1,500 within 28 days of the date of the order.	Both respondents to pay to the applicant costs of \$500 within 28 days of the date of the order.

