



THIRTY-EIGHTH PARLIAMENT

REPORT 31

**STANDING COMMITTEE ON ESTIMATES AND
FINANCIAL OPERATIONS**

**REPORT ON THE 2008/2009 AGENCY ANNUAL
REPORTS: REQUEST FOR A MEMBER OF THE
LEGISLATIVE ASSEMBLY TO APPEAR BEFORE
THE COMMITTEE**

Presented by Hon Giz Watson MLC (Chair)

November 2010

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Date first appointed:

30 June 2005

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

“2. Standing Committee on Estimates and Financial Operations

2.1 *An Estimates and Financial Operations Committee* is established.

2.2 The Committee consists of 5 Members, 3 of whom shall be non-government Members.

2.3 The functions of the Committee are to consider and report on -

- (a) the estimates of expenditure laid before the Council each year;
- (b) any matter relating to the financial administration of the State;
- (c) any bill or other matter relating to the foregoing functions referred by the Legislative Council;
- (d) to consult regularly with the Auditor General and any person holding an office of a like character.”

Members as at the time of this inquiry:

Hon Giz Watson MLC (Chair)

Hon Philip Gardiner MLC (Deputy Chair)

Hon Liz Behjat MLC

Hon Ljiljanna Ravlich MLC

Hon Ken Travers MLC

Staff as at the time of this inquiry:

Anne Turner Advisory Officer (Legal)

Steve Hales Advisory Officer (General)

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Government Response

This Report is subject to Standing Order 337:

After tabling, the Clerk shall send a copy of a report recommending action by, or seeking a response from, the Government to the responsible Minister. The Leader of the Government or the Minister (if a Member of the Council) shall report the Government's response within 4 months.

The four-month period commences on the date of tabling.

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REPORT OF THE STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

REPORT ON THE 2008/2009 AGENCY ANNUAL REPORTS: REQUEST FOR A MEMBER OF THE LEGISLATIVE ASSEMBLY TO APPEAR BEFORE THE COMMITTEE

1 REFERENCE AND PROCEDURE

1.1 On 14 September 2009 the Estimates and Financial Operations Committee (**Committee**) resolved to hold hearings into Agency Annual Reports for 2008/09. The Committee advised the Legislative Council of this resolution as required by Standing Order 325 on 22 September 2009.¹ The review of Agency Annual Reports forms part of the Committee's review of the estimates of expenditure.²

1.2 The Committee tabled a report into the 2008/09 Agency Annual Reports on 19 August 2010. Amongst other things, the Committee reminded all agencies of their statutory obligations in relation to the tabling of Annual Reports stating that:

Where timeframes cannot be met the responsible Minister is required to report this to the Parliament, together with the reasons why and the anticipated date of tabling.

*The Committee will continue to monitor compliance with this statutory requirement.*³

1.3 On 18 October 2010 the Committee, by its own motion, resolved to re-open its inquiry into the 2008/2009 Agency Annual Reports. This arose out of an investigation into 10 agencies' Annual Reports that were tabled later than the 90 days timeframe prescribed in the *Financial Management Act 2006* for the financial year ending 30 June 2009.

1.4 Hon Liz Behjat MLC dissented to the resolution.

2 BACKGROUND

2.1 In 2009 the prescribed tabling date for Agency Annual Reports that report their activities at the end of financial year was Monday, 28 September 2009. That year the Committee identified 10 agencies whose annual reports were tabled after that date. These were:

¹ Hon Giz Watson MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 22 September 2009, p7320.

² The Committee's term of reference 2.3a provides that it is a function of the Committee to consider and report on the estimates of expenditure laid before the Council each year.

³ Western Australia, Legislative Council, Estimates and Financial Operations Committee, Report 30, *Agency Annual Reports 2008/09*, 19 August 2010, p11.

- the Country Housing Authority;
- the Department of Housing;
- the Housing Authority;
- the Department for Commerce;
- the Real Estate Agents and Business Agents Supervisory Board;
- the Settlement Agents Supervisory Board;
- the Small Business Development Corporation;
- the State Supply Commission;
- WorkCover Western Australia; and
- the Western Australian Technology and Industry Advisory Council's Annual Activity Report.

2.2 Parliamentary tabled papers reveal that of the 10 agencies listed above, the Clerk received the Annual Reports of the first nine on 5 October 2009 under section 83(2) of the *Financial Management Act 2006*.⁴ Those nine agencies' Annual Reports were physically tabled in the Legislative Council on 13 October 2009 and were thus, one week late.

2.3 Of the 10th agency - the Western Australian Technology and Industry Advisory Council, its Annual Activity Report was received by the Clerk on 10 November 2009 and tabled the next day in the Legislative Council making it six weeks late.⁵

3 THE FORMER MINISTER'S EXPLANATION TO THE COMMITTEE

3.1 The Committee wrote to the (then) Minister for Commerce, Hon Troy Buswell MLA requesting an explanation as to why these 10 Agency Annual Reports were tabled late. Former Minister Buswell replied via three separate letters all dated 22 October 2009 and apologised for the late tabling. The former Minister attributed tabling delays in

⁴ Section 83(2) states that a copy of a document transmitted to the Clerk of a House "*is to be regarded as having been laid before that House*."

⁵ The Western Australian Technology and Industry Advisory Council's *Annual Activity Report 2009* was also tabled in the Legislative Assembly on 11 November 2009. Tabled papers research reveals that neither former Minister Buswell requested an extension of the tabling date in the Legislative Assembly nor the representing Minister in the Legislative Council.

identical terms, stating that the agencies had been “...making final amendments before the reports could be tabled”.⁶ The three letters are replicated in **Appendix 1**.

- 3.2 Further information about delays in tabling was sought directly from the 10 identified agencies and through *Answers to Questions on Notice* in the Legislative Council. Responses from the 10 agencies seeking confirmation of the former Minister’s statement may be viewed in **Appendix 2**. *Answers to Questions on Notice* are in **Appendix 3**.
- 3.3 The information supplied from the agencies, which is summarised in **Appendix 4** (with one exception discussed below), does not accord with the advice provided by the former Minister in the three letters dated 22 October 2009. The information indicates changes were sought to only three of the 10 Annual Reports that were tabled late. In those cases the requested changes were supplied to the former Minister before the prescribed tabling date. As such, the advice provided by the former Minister in the three letters and the advice obtained from other sources do not accord.
- 3.4 The exception referred to in paragraph 3.3 is the Settlement Agents Supervisory Board Annual Report which was first provided to the Minister on 24 September 2009. According to an *Answer to Question on Notice* dated 30 June 2010, no changes were requested to the Annual Report. However, correspondence from Mr Tim Banfield, Director, Settlement Agents Supervisory Board, dated 4 October 2010, indicates that a “corrected version of the ...annual report was provided to the Minister on 29 September 2009” after a substantive error was discovered on 25 September 2009 making, in this case, the former Minister’s comment correct.

4 THE ISSUE IN DISPUTE

- 4.1 The Committee takes the presentation of Annual Reports in accordance with the *Financial Management Act 2006* seriously.
- 4.2 The reason for this Report is the statement by the former Minister that delays in tabling is attributed to the agencies making final amendments before the reports could be tabled. The evidence of the former Minister and evidence from other sources cannot be reconciled. The provision of incorrect information to the Parliament is the matter of serious concern to the Committee.
- 4.3 The Committee noted it could either contact the former Minister directly or seek his appearance at a hearing for an explanation. The Committee resolved to request the appearance of the former Minister pursuant to Standing Order 423.

⁶ Three letters to the Committee dated 22 October 2009. See **Appendix 1**.

5 APPEARANCE OF AN ASSEMBLY MEMBER BEFORE A LEGISLATIVE COUNCIL COMMITTEE

5.1 Standing Order 423 states:

When attendance of Member or Officer of Assembly required

When the attendance of a Member of the Assembly or any officer of that House is desired, to be examined by the Council or any committee thereof (not being a committee on a Private Bill), a Message shall be sent to the Assembly to request that the Assembly give leave to such Member or officer to attend, in order to his being examined accordingly.

- 5.2 The Committee noted that while Standing Order 423 allows a Message to be used to examine a Member of the Legislative Assembly, custom and practice also provides for a direct invitation from the Committee - that is, the former Minister could be invited to appear.⁷ However, former President of the Legislative Council, Hon Nick Griffiths MLC's procedural ruling dated 21 August 2007 states:

*This procedure of appearance by request should not be used in cases where the conduct of individuals may be examined, adverse findings may be made against individuals or disputed matters of fact may be under inquiry. For such cases I am of the view that that ... the formal process of Message and authorisation to appear should be employed.*⁸

- 5.3 In light of this Ruling and the nature of the evidence the Committee is likely to receive from the former Minister, the Committee resolved to initiate the process provided for in Standing Order 423.
- 5.4 The Committee makes the following recommendation to which Hon Liz Behjat MLC dissents.

⁷ Former President of the Legislative Council, Hon Nick Griffiths MLC's procedural ruling dated 21 August 2007, p2 states: "Should an Assembly Member wish to appear before a Council committee, the committee can accommodate the request without any need for the Council committee to instigate the process under SO 423. This is a practical approach in the context of a voluntary appearance by an Assembly Member by request as opposed to a requirement by a Council committee. It is consistent with the practice in other jurisdictions."

⁸ At Item 3 of page 3.

Recommendation 1: The Committee recommends that the Legislative Council send a Message to the Legislative Assembly in the following terms:

‘Mr Speaker, The Legislative Council requests that the Legislative Assembly grant leave to Hon Troy Buswell MLA, to give evidence before the Standing Committee on the Estimates and Financial Operations’ Inquiry into the 2008-2009 Agency Annual Reports, if he thinks fit.’



Hon Giz Watson MLC
Chair

Date: 18 November 2010

APPENDIX 1

LETTERS FROM THE FORMER MINISTER



PUBLIC

TREASURER; MINISTER FOR COMMERCE;
SCIENCE & INNOVATION; HOUSING & WORKS

Our ref: 30-09226



Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH WA 6000

Dear Ms Watson

ANNUAL REPORTS 2008/09

Thank you for your letter dated 8 October 2008/9 with regards to the 2008/09 annual reports for the following agencies:

- Country Housing Authority;
- Department of Housing; and
- Housing Authority

In response to your questions I can confirm that these reports were not tabled within the prescribed timeframe due to Agencies making final amendments before the reports could be tabled.

I apologise for not advising Parliament as required by section 65 of the Act.

Yours sincerely

HON TROY BUSWELL MLA
TREASURER; MINISTER FOR COMMERCE;
SCIENCE AND INNOVATION; HOUSING AND WORKS

22 OCT 2009

Level 21, 197 St Georges Terrace, Perth, Western Australia 6000
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PUBLIC

**TREASURER; MINISTER FOR COMMERCE;
SCIENCE & INNOVATION; HOUSING & WORKS**

Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH WA 6000



Dear Ms Watson

ANNUAL REPORTS 2008/09

In accordance with section 65 of the Financial Management Act 2006 I would like to advise that the Western Australian Technology and Industry Advisory Council Annual Activity Report 2008/09 will be tabled outside the prescribed timeframe.

The reason for the delay for the Reports not being tabled within the prescribed timeframe is due to the Council making final amendments to the reports before they could be tabled.

Yours sincerely

**HON TROY BUSWELL MLA
TREASURER; MINISTER FOR COMMERCE;
SCIENCE AND INNOVATION; HOUSING AND WORKS**

22 OCT 2009

Level 21, 197 St Georges Terrace, Perth, Western Australia 6000
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www.ministers.wa.gov.au/buswell



PUBLIC

**TREASURER; MINISTER FOR COMMERCE;
SCIENCE & INNOVATION; HOUSING & WORKS**

Our ref: 30-09223



Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH WA 6000

Dear Ms Watson

ANNUAL REPORTS 2008/09

Thank you for your letter dated 8 October 2008/9 with regards to the 2008/09 annual reports for the following agencies:

- Department of Commerce;
- Real Estate and Business Agents Supervisory Board;
- Settlement Agents Supervisory Board;
- Small Business Development Corporation;
- State Supply Commission; and
- WorkCover Western Australia

In response to your questions I can confirm that these reports were not tabled within the prescribed timeframe due to Agencies making final amendments before the reports could be tabled.

I apologise for not advising Parliament as required by section 65 of the Act.

Yours sincerely

**HON TROY BUSWELL MLA
TREASURER; MINISTER FOR COMMERCE;
SCIENCE AND INNOVATION; HOUSING AND WORKS**

22 OCT 2009

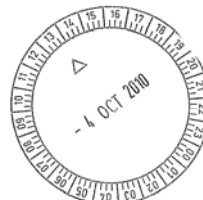
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APPENDIX 2

LETTERS FROM AGENCIES



PUBLIC



28 September 2010

Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
Perth WA 6000

Dear Chair

RE: ANNUAL REPORT 2008/09

I refer to your correspondence dated 22 September 2010 in relation to the tabling of the Country Housing Authority 2008-09 Annual Report.

In regards to the Committee's request, I wish to advise that, to the best of my knowledge:

1. The Country Housing Authority 2008-09 Annual Report was provided to the Minister within the prescribed timeframe;
2. Keystart is not privy as to who requested the drafting of the attached correspondence, suffice to say the request did not emanate from this office;
3. I have not been made privy as to why the correspondence was prepared in the manner presented; and
4. I am not aware as to who was responsible for drafting the terms of the attached correspondence.

Yours sincerely

WENDY HARRIS
ACTING CEO



Government of Western Australia
Department of Housing

FOR METROPOLITAN LOANS
Phone: 1300 578 278
Level 6, 218 St Georges Terrace, Perth WA
PO Box 7668, Cloisters Square, Perth WA 6850
www.keystart.com.au
Keystart Loans Limited
ABN: 27 009 427 034

FOR COUNTRY LOANS
Phone: 1800 158 200
Level 2, 28 Kings Park Road West Perth WA
PO Box 1154 West Perth WA 6872
www.country.keystart.com.au
Country Housing Authority
ABN: 76 667 185 896



6th Floor 219 St Georges Terrace
Perth Western Australia 6000
Locked Bag 14
Cloisters Square WA 6850
Telephone: 08 9282 0843
Facsimile: 08 9282 0869
ABN: 96 346 356 779

Your ref: A246127
Our ref: CP00039/2010
Date: 04 October 2010



Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH WA 6000

Dear Ms Watson,

**ANNUAL REPORT 2008/09 – REAL ESTATE AND BUSINESS AGENTS
SUPERVISORY BOARD**

Thank you for your letter dated 22 September 2010 requesting answers to four questions relating to concerns your Committee has in reconciling a letter from the former Minister for Commerce dated 22 October 2009 and answers provided by me to a Question on Notice asked in Parliament on 30 June 2010.

Prior to providing the Committee with answers it seeks, it may be beneficial for me to provide you with some background information.

The Real Estate and Business Agents Supervisory Board (REBA Board) is an independent statutory authority created under the *Real Estate and Business Agents Act 1978* (REBA Act). Section 135 of the REBA Act provides that the provisions of the *Financial Management Act 2006* (FMA) apply to and in respect of the REBA Board and its operations.

In accordance with the definition at s3 and s55 of the *Finance and Management act 2006* (FMA), the Accountable Authority is the REBA Board (collectively), however administrative direction is given to the Board's Principal Officer under the auspices of the Chairman. In accordance with s57 of the FMA the REBA Board has appointed its Director (Principal Officer), as its Chief Financial Officer.

The REBA Board obtains various services from the Department of Commerce (DoC) through a Service Delivery and Partnering Agreement, which includes amongst other things, preparation of the Board's annual reports, financial statements and key performance indicators.

Each year, under the direct control and guidance of the Chairman, commencing at the close of business 30 June, I cause the Board's annual report, financial statements, Auditor General's report and key performance indicators to be developed for the Board's approval and delivery to the Minister for Commerce so he can lay before each House of Parliament in accordance with the FMA.

.../2

Section 64 of the FMA provides that "*The Minister is to cause to be laid before each House of Parliament, or dealt with under section 83, within the prescribed period after the end of a financial year of an agency — (a) a copy of the annual report for the financial year prepared by the accountable authority of the agency under section 61; and (b) unless the audit of the agency's accounts in respect of the financial year has been dispensed with under the Auditor General Act 2006 section 14(2) — a copy of the opinion of the Auditor General prepared and signed under section 15 of that Act.*"

Section 64(2) provides that the prescribed period is 90 days after the end of a financial year of an agency. In 2009, that date would have been by close of business Monday, 28 September 2009.

According to records found on the WA Parliament website (www.parliament.wa.gov.au), both the Legislative Assembly and Legislative Council sat between 22 – 24 September 2009 and not again until 13 – 15 October 2009. As such, the last opportunity to table the annual report in Parliament was 24 September 2009.

The answers to the Committee's questions are as follows:

1. ***an explanation, to the best of your knowledge, as to the inaccuracy of the Minister's statement in the copy of the attached letter;*** [letter from Hon Troy Buswell MLA dated 22 October 2009].

To the best of my knowledge, the REBA Board completed preparation of its 2008/09 annual report, financial statements, Auditor General's report and key performance indicators on or around 18 September 2009. A briefing note was prepared (by Sarah Grove) and executed (by the Chairman and myself) for the purposes of introducing the REBA Board's 2008/09 annual report to the Minister for Commerce on 18 September 2009. This briefing note and 10 bound copies of the REBA Board's 2008/09 annual report were then sent through the normal process to the DoC Ministerial Liaison Officer on 18 September 2009 for delivery to the Hon Minister for Commerce as soon as possible after that date.

Under the provisions of the Service Delivery and Partnering Agreement 2009-2014 between the REBA Board and the DoC, services are provided to record, control and facilitate communications between the Minister's Office and the REBA Board. The briefing note and 10 copies of the REBA Board's 2008/09 annual report were recorded by the DoC's Ministerial Liaison Officer as being delivered to the Minister's Office on or about 24 September 2009.

Subsequent to the delivery to the Ministerial Liaison Officer, no changes were requested by the Hon Minister or the REBA Board to the REBA Board's 2008/09 annual report. To the best of my knowledge, no final amendments were being made to the REBA Board 2008/09 annual report.

I am not in a position to advise the Committee on any inaccuracies in the Minister's statements in the letter dated 22 October 2009 provided to the Chairperson of the Committee as that correspondence relates to other entities besides the REBA Board. I do not know if final amendments were being made by all or any of the remaining four entities named in that letter.

.../3

2. ***your confirmation or otherwise that the attached copy of the letter was drafted at the request of the former Minister;***

I can confirm that I was not requested to draft the letter referred to and until provided to me attached to your letter dated 22 September 2010, I had never seen this correspondence. I am unable to advise the Committee who requested or drafted the subject correspondence.

3. ***if confirmed, why the letter was prepared that way, given that the former Minister could have tabled your 2008/9 Annual Report within the 90 days prescribed by the Financial Management Act 2006;***

I am unable to advise the Committee why the letter referred to was prepared the way that it was.

It appears, from my analysis of the sitting dates of both Houses of Parliament, that the REBA Board's 2008/09 annual report was delivered to the Minister's Office on the last day Parliament was sitting. Depending on the time of day the delivery occurred, it seems unlikely that the Hon Minister would have been able to table the documents prior to the 2 weeks recess of Parliament occurring.

In light of these events and the sitting dates for Parliament in 2009, the first opportunity the Hon Minister would have had to lay before Parliament the annual reports was on 13 October 2009. Hansard indicates that all agencies nominated in the letter from the former Minister dated 22 October 2009 had their annual reports tabled on 13 October 2009.

Section 83 of the FMA appears to provide an option for the Minister to table documents with the Clerk of a House if Parliament is not sitting. Section 83(2) provides that: "A copy of a document transmitted to the Clerk of a House is to be regarded as having been laid before that House". As the annual report was tabled in Parliament on first sitting day of Parliament following the recess, it is possible this is what the Hon Minister did.

It may assist the Committee if I were to shed some light on the internal processes for delivery of briefing notes to the Minister's Office from the REBA Board. Once the Chairman and Director countersign the briefing note, it is then forwarded to the Executive Director Consumer Protection (Commissioner for Consumer Protection) for further quality control. If amendments are required, the document is returned.

If no changes are required/requested, then the document is forwarded to the Director General DoC via the Ministerial Liaison Officer. The Director General will then sign off on delivery to the Minister's Office. This process might explain the 4 working days between when the REBA Board signed off on the briefing note (18 September 2009) introducing the annual report to the Minister and when it was actually delivered to the Minister (24 September 2009).

If the above timeline is correct, then the Minister's comments may be correct in so much as they relate to amendments or reviews the agencies (including REBA Board) would have been making/considering, up to and possibly including the date of delivery to his office.

.../4

4. *your knowledge as to who was responsible for drafting the terms of the attached letter: for example, the former Minister himself, the Chief of Staff, a person within the Minister's office or a policy officer.*

I have no knowledge of who was responsible for drafting the terms of the subject letter.

I hope the above information has been of assistance to you and the Committee. If you require further information I can be contacted on (08) 9282 0715 or mobile 0434 306 839 or by email at tim.banfield@commerce.wa.gov.au.

Yours Sincerely,



Tim Banfield
DIRECTOR



Government of Western Australia
Department of Treasury and Finance
Office of the Under Treasurer

PUBLIC



Your ref : A 246149
Our ref : 7131272
Enquiries : Rod Alderton
Telephone : 9222 5670

Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH, WA, 6000

Dear Ms Watson

STATE SUPPLY COMMISSION ANNUAL REPORT 2008/09

I refer to your letter of 22 September 2010 regarding the above. In response to your questions, I advise that:

1. I do not recall any significant amendments being made, however, there may have been some minor edits that were handled at officer level. I have been unable to confirm this either way.
2. I have no knowledge of who drafted the letter at the request of the former Minister. No request was made of the State Supply Commission.
3. Refer to 2.
4. Refer to 2.

Yours sincerely

Timothy Marney
UNDER TREASURER

4 October 2010

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Government of Western Australia
Small Business Development Corporation

PUBLIC



www.smallbusiness.wa.gov.au

Your ref: A246147
Our ref: D10/7505



Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH WA 6000

Dear Ms Watson

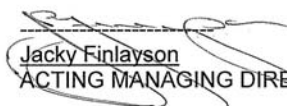
ANNUAL REPORT 2008/09

In response to your letter dated 22 September 2010 requesting information in relation to the Small Business Development Corporation's (SBDC) 2008/09 Annual Report, and in particular the tabling of the report, I submit the following:

1. I am unable to comment on the inaccuracy or otherwise of the Minister's statement other than to say that, in accordance with our response to the Question on Notice asked in Parliament on 30 June 2010, the SBDC annual report was returned to the Minister's office on September 25 for tabling after four (4) amendments had been made;
2. I am unable to comment on whether the letter attached to your correspondence was drafted at the request of the former Minister;
3. Not applicable; and
4. I am not aware who was responsible for drafting the terms of the letter referred to.

Should you require further information in relation to this matter, I can be contacted on (08) 92200203.

Yours sincerely


Jacky Finlayson
ACTING MANAGING DIRECTOR

4 October 2010

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Email: info@smallbusiness.wa.gov.au
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wa.gov.au

X5801.001

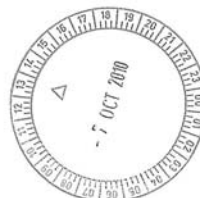


Your ref: A246127
Our ref: CP00039/2010
Date: 04 October 2010



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Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH WA 6000

Dear Ms Watson,

ANNUAL REPORT 2008/09 – SETTLEMENT AGENTS SUPERVISORY BOARD

Thank you for your letter dated 22 September 2010 requesting answers to four questions relating to concerns your Committee has in reconciling a letter from the former Minister for Commerce dated 22 October 2009 and answers provided by me to a Question on Notice asked in Parliament on 30 June 2010.

Prior to providing the Committee with answers it seeks, it may be beneficial for me to provide you with some background information.

The Settlement Agents Supervisory Board (SASB Board) is an independent statutory authority created under the *Settlement Agents Act 1981* (SASB Act). Section 112 of the SASB Act provides that the provisions of the *Financial Management Act 2006* (FMA) apply to and in respect of the SASB Board and its operations.

In accordance with the definition at s3 and s55 of the *Finance and Management Act 2006* (FMA), the Accountable Authority is the SASB Board (collectively), however administrative direction is given to the Board's Principal Officer under the auspices of the Chairwoman. In accordance with s57 of the FMA the SASB Board has appointed its Director (Principal Officer), as its Chief Financial Officer.

The SASB Board obtains various services from the Department of Commerce (DoC) through a Service Delivery and Partnering Agreement, which includes amongst other things, preparation of the Board's annual reports, financial statements and key performance indicators.

Each year, under the direct control and guidance of the Chairwoman, commencing at the close of business 30 June, I cause the Board's annual report, financial statements, Auditor General's report and key performance indicators to be developed for the Board's approval and delivery to the Minister for Commerce so he can lay before each House of Parliament in accordance with the FMA.

.../2

Section 64 of the FMA provides that "*The Minister is to cause to be laid before each House of Parliament, or dealt with under section 83, within the prescribed period after the end of a financial year of an agency — (a) a copy of the annual report for the financial year prepared by the accountable authority of the agency under section 61; and (b) unless the audit of the agency's accounts in respect of the financial year has been dispensed with under the Auditor General Act 2006 section 14(2) — a copy of the opinion of the Auditor General prepared and signed under section 15 of that Act.*"

Section 64(2) provides that the prescribed period is 90 days after the end of a financial year of an agency. In 2009, that date would have been by close of business Monday, 28 September 2009.

According to records found on the WA Parliament website (www.parliament.wa.gov.au), both the Legislative Assembly and Legislative Council sat between 22 – 24 September 2009 and not again until 13 – 15 October 2009. As such, the last opportunity to table the annual report in Parliament was 24 September 2009.

The answers to the Committee's questions are as follows:

1. ***an explanation, to the best of your knowledge, as to the inaccuracy of the Minister's statement in the copy of the attached letter;*** [letter from Hon Troy Buswell MLA dated 22 October 2009].

To the best of my knowledge, the SASB Board completed preparation of its 2008/09 annual report, financial statements, Auditor General's report and key performance indicators on or around 18 September 2009. A briefing note was prepared (by Sarah Grove) and executed (by the Chairwoman and myself) for the purposes of introducing the SASB Board's 2008/09 annual report to the Minister for Commerce on 18 September 2009.

This briefing note and 10 bound copies of the SASB Board's 2008/09 annual report were then sent through the normal process to the DoC Ministerial Liaison Officer on 18 September 2009 for delivery to the Minister for Commerce as soon as possible after that date.

Under the provisions of the Service Delivery and Partnering Agreement 2009-2014 between the SASB Board and the DoC, services are provided to record, control and facilitate communications between the Minister's Office and the SASB Board. The briefing note and 10 copies of the SASB Board's 2008/09 annual report were recorded by the DoC's Ministerial Liaison Officer as being delivered to the Minister's Office on or about 24 September 2009.

On 25 September 2009, a DoC staff member discovered an incorrect word within the *Significant Compliance Issues* section of the SASB 2008/09 annual report. This word incorrectly altered the opinion and advice of the SASB Board regarding a contentious issue and arrangements were made with the Minister's Office to have the erroneous version of the annual report replaced with a corrected version.

The corrected version of the SASB Board's 2008/09 annual report was provided to the Minister on 29 September 2009, which was two working days into Parliament's 2 weeks recess.

.../3

I am not in a position to advise the Committee on any inaccuracies in the Minister's statements in the letter dated 22 October 2009 provided to the Chairperson of the Committee as that correspondence relates to other entities besides the SASB Board. I do not know if final amendments were being made by all or any of the remaining four entities named in that letter.

2. ***your confirmation or otherwise that the attached copy of the letter was drafted at the request of the former Minister;***

I can confirm that I was not requested to draft the letter referred to and until provided to me attached to your letter dated 22 September 2010, I had never seen this correspondence. I am unable to advise the Committee who requested or drafted the subject correspondence.

3. ***if confirmed, why the letter was prepared that way, given that the former Minister could have tabled your 2008/9 Annual Report within the 90 days prescribed by the Financial Management Act 2006;***

I am unable to advise the Committee why the letter referred to was prepared the way that it was.

It appears, from my analysis of the sitting dates of both Houses of Parliament, that the SASB Board's 2008/09 annual report was delivered to the Minister's Office two days past the last day Parliament sat in September. The Hon Minister would not have been able to table the documents prior to the 2 weeks recess of Parliament occurring. The Hon Minister would have been unable to advise Parliament in accordance with s65 of the FMA that he would be unable to table the SASB Board's 2008/09 annual report within the prescribed 90 days until 13 October 2009 when Parliament sat again.

Section 83 of the FMA appears to provide an option for the Minister to table documents with the Clerk of a House if Parliament is not sitting. Section 83(2) provides that: "A copy of a document transmitted to the Clerk of a House is to be regarded as having been laid before that House". As the annual report was tabled in Parliament on first sitting day of Parliament following the recess, it is possible this is what the Hon Minister did.

In light of these events and the sitting dates for Parliament in 2009, the first opportunity the Hon Minister would have had to lay before Parliament the annual reports was on 13 October 2009. Hansard indicates that all agencies nominated in the letter from the former Minister dated 22 October 2009 had their annual reports tabled on 13 October 2009.

In the case of the SASB Board, the Hon Minister's comments appear correct.

4. ***your knowledge as to who was responsible for drafting the terms of the attached letter: for example, the former Minister himself, the Chief of Staff, a person within the Minister's office or a policy officer.***

I have no knowledge of who was responsible for drafting the terms of the subject letter.

.../4

4

I hope the above information has been of assistance to you and the Committee. If you require further information I can be contacted on (08) 9282 0715 or mobile 0434 306 839 or by email at tim.banfield@commerce.wa.gov.au.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Banfield', with a long horizontal flourish extending to the right.

Tim Banfield
DIRECTOR



Government of Western Australia
Department of Commerce

Office Of Director General

5 October 2010



PUBLIC

Your Ref: A246127
Our Ref: A1869527
Enquiries: Brian Bradley

Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH WA 6000

Dear Hon G Watson MLC

ANNUAL REPORTS 2008/09

I refer to your letter dated the 22 September 2010, whereby you are seeking my response to a series of questions relevant to the tabling in Parliament of the Department of Commerce annual report for 2008/09.

I can confirm the accuracy of the response provided recently in respect to question on notice No. 2562.

However, as best as I can recollect, I do not have any specific knowledge in regard to the questions you have raised in your letter.

Yours sincerely

Brian Bradley
Director General

Forrest Centre 219 St Georges Terrace Perth Western Australia 6000 Locked Bag 14 Cloisters Square Perth WA 6850
Telephone Administration (08) 9282 0777 Call Centre 1300 304 054 Facsimile (08) 9282 0850
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11111111



2 Bedbrook Place
Shenton Park
Western Australia 6008
www.workcover.wa.gov.au
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telephone 08 9388 5555
facsimile 08 9388 5550
advisory services 1300 794 744
TTY 08 9388 5537

PUBLIC

Your Ref: A 246151
Our Ref: 0527-2010-01

Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH WA 6000



Dear Ms Watson

ANNUAL REPORT 2008/09

I refer to your letter dated 22 September 2010 regarding WorkCover WA's Annual Report 2008/09.

In response to your requests:

1. As advised in our response to Parliamentary Question 2567, asked in the Legislative Council on 30 June 2010, WorkCover WA provided its Annual Report 2008/09 to the then Minister's Office on 21 September 2009.

There were no changes made to the Annual Report once referred to the Minister's Office.

- 2-4. WorkCover WA were not involved in the drafting of the letter from the then Minister dated 22 October 2009.

For information regarding the drafting of the aforementioned letter I would recommend you contact the Office of the Minister for Commerce.

I trust this clarifies the process associated with the WorkCover WA Annual Report 2008/09. Should you require further information please contact me on 9388 5500.

Yours sincerely

Michelle Reynolds
CHIEF EXECUTIVE OFFICER

5 October 2010



PUBLIC

**MINISTER FOR COMMERCE; SCIENCE AND INNOVATION; HOUSING;
MINISTER ASSISTING THE TREASURER**

Your ref: A246155
Our ref:



Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH WA 6000

Dear Ms Watson

ANNUAL REPORTS 2008/9

In your letter of 22 September 2010 regarding the delays in the tabling of the 2008/09 annual report for the Technology and Industry Advisory Council (TIAC) you have raised four issues. Note the following response provided to the best of my knowledge.

1. Staff in the former Minister's Office who may have dealt with the TIAC annual report in 2009 and who may have had involvement in the letter addressed to you, dated 22 October 2009, no longer work in this office.

It should be noted that TIAC reports under the Financial Management Act 2006 and the Auditor General Act 2006 through the Department of Commerce's Annual Report and Financial Statements.

- 2-4. The issues raised are seeking opinion regarding a former Minister and should appropriately be directed to the former Minister.

Yours sincerely

Bill Marmion MLA
MINISTER FOR COMMERCE; SCIENCE AND INNOVATION;
HOUSING; MINISTER ASSISTING THE TREASURER

07 OCT 2010

Level 21, 197 St Georges Terrace, Perth, Western Australia 6000
Telephone: +61 8 9222 9111 Facsimile: +61 8 9222 9410 Email: Minister.Marmion@dpc.wa.gov.au
www.ministers.wa.gov.au/marmion



Government of Western Australia
Department of Housing
Office of the Director General

PUBLIC



Your Ref: 246113

Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH WA 6000

Dear Ms Watson

I refer to your letters dated 22 September 2010 regarding the 2008/09 Annual Reports of the Housing Authority and the Department of Housing.

With reference to your questions, I can confirm that the information contained in the recent Question on Notice regarding the provision of the Annual Reports to the former Minister for Housing and Works is correct. I am not able to provide any other information in relation to your questions other than to confirm that the letter to which you refer was not drafted by the Department.

Yours sincerely

GRAHAME SEARLE
DIRECTOR GENERAL

8 October 2010

99 Plain Street East Perth Western Australia 6004
Private Bag 22 East Perth Western Australia 6992
Telephone (08) 9222 4666 TTY (08) 9476 2446 Facsimile (08) 9221 1388
www.housing.wa.gov.au
wa.gov.au

APPENDIX 3

ANSWERS TO QUESTIONS ON NOTICE

Question On Notice No. 2559 asked in the **Legislative Council** on **30 June 2010** by **Hon Ken Travers**

Question Directed to the: **Leader of the House representing the Minister for Housing**

Minister responding: **Hon W.R. Marmion**

Parliament: **38** Session: **1**

Question

- (1) On what date did the Country Housing Authority first provide its 2008-09 annual report to the Minister?
- (2) Did the Minister request any changes to the annual report prior to tabling?
- (3) If yes to (2), -
 - (a) on what date were changes requested; and
 - (b) on what date did the Agency return the annual report to the Minister for tabling?

Answer

Answered on 10 August 2010

The Department of Housing advises:

- (1) 23 September 2009
- (2) No
- (3) (a) - (b) Not Applicable

Question On Notice No. 2560 asked in the **Legislative Council** on **30 June 2010** by **Hon Ken Travers**

Question Directed to the: **Leader of the House representing the Minister for Housing**

Minister responding: **Hon W.R. Marmion**

Parliament: **38** Session: **1**

Question

- (1) On what date did the Department of Housing first provide its 2008-09 annual report to the Minister?

(2) Did the Minister request any changes to the annual report prior to tabling?

(3) If yes to (2), -

(a) on what date were changes requested; and

(b) on what date did the Department return the annual report to the Minister for tabling?

Answer

Answered on 7 September 2010

The Department of Housing advises:

(1) 16 September 2009

(2) No

(3) (a) - (b)

Question On Notice No. 2561 asked in the **Legislative Council** on **30 June 2010** by **Hon Ken Travers**

Question Directed to the: **Leader of the House representing the Minister for Housing**

Minister responding: **Hon W.R. Marmion**

Parliament: **38** Session: **1**

Question

(1) On what date did the Housing Authority first provide its 2008-09 annual report to the Minister?

(2) Did the Minister request any changes to the annual report prior to tabling?

(3) If yes to (2), -

(a) on what date were changes requested; and

(b) on what date did the Agency return the annual report to the Minister for tabling?

Answer

Answered on 7 September 2010

The Department of Housing advises:

(1) 28 August 2009

(2) Yes

(3)

(a) 22 September 2009

(b) 24 September 2009

Question On Notice No. 2562 asked in the **Legislative Council** on **30 June 2010** by **Hon Ken Travers**

Question Directed to the: **Leader of the House representing the Minister for Commerce**

Minister responding: **Hon W.R. Marmion**

Parliament: **38** Session: **1**

Question

- (1) On what date did the Department of Commerce first provide its 2008-09 annual report to the Minister?
- (2) Did the Minister request any changes to the annual report prior to tabling?
- (3) If yes to (2), -
 - (a) on what date were changes requested; and
 - (b) on what date did the Department return the annual report to the Minister for tabling?

Answer

Answered on 7 September 2010

The Department of Commerce advises:

- (1) 21 September 2009.
- (2) Yes. The Minister sought greater clarification of reporting against targets for two initiatives on page 28, Department of Commerce 2008/09 Annual Report:
 - Fair Pay and Conditions Policy WA 2008 (Procurement Policy - shared with the Department of Treasury and Finance; and Housing);and
 - Implementation of State Broadband Network Strategy (shared with the Department of Treasury and Finance, Premier and Cabinet, Education, and Health, Police WA and Office of E-Government).
- (3a) 23 September 2009.
- (3b) 24 September 2009.

Question On Notice No. 2563 asked in the **Legislative Council** on **30 June 2010** by **Hon Ken Travers**

Question Directed to the: **Leader of the House representing the Minister for Commerce**

Minister responding: **Hon W.R. Marmion**

Parliament: **38** Session: **1**

Question

- (1) On what date did the Real Estate and Business Agents Supervisory Board first provide its 2008-09 annual report to the Minister?
- (2) Did the Minister request any changes to the annual report prior to tabling?
- (3) If yes to (2), -
 - (a) on what date were changes requested; and
 - (b) on what date did the Agency return the annual report to the Minister for tabling?

Answer

Answered on 7 September 2010

The Department of Commerce advises:

- (1) The Real Estate and Business Agents Supervisory Board first provided its 2008-09 annual report to the Minister on 24 September 2009.
- (2) No.
- (3) Not applicable.

Question On Notice No. 2564 asked in the **Legislative Council** on **30 June 2010** by **Hon Ken Travers**

Question Directed to the: **Leader of the House representing the Minister for Commerce**

Minister responding: **Hon W.R. Marmion**

Parliament: **38** Session: **1**

Question

- (1) On what date did the Settlement Agents Supervisory Board first provide its 2008-09 annual report to the Minister?
- (2) Did the Minister request any changes to the annual report prior to tabling?
- (3) If yes to (2), -

(a) on what date were changes requested; and

(b) on what date did the Agency return the annual report to the Minister for tabling?

Answer

Answered on 7 September 2010

The Department of Commerce advises:

(1) The Settlement Agents Supervisory Board first provided its 2008-09 annual report to the Minister on 24 September 2009.

(2) No.

(3a) - (3b) Not applicable.

Question On Notice No. 2565 asked in the **Legislative Council** on **30 June 2010** by **Hon Ken Travers**

Question Directed to the: **Leader of the House representing the Minister for Commerce**

Minister responding: **Hon W.R. Marmion**

Parliament: **38** Session: **1**

Question

(1) On what date did the Small Business Development Corporation first provide its 2008-09 annual report to the Minister?

(2) Did the Minister request any changes to the annual report prior to tabling?

(3) If yes to (2), -

(a) on what date were changes requested; and

(b) on what date did the Agency return the annual report to the Minister for tabling?

Answer

Answered on 7 September 2010

(1) 22 September 2009

(2) Yes

(3)

(a) 24 September 2009

(b) 25 September 2009

Question On Notice No. 2566 asked in the **Legislative Council** on **30 June 2010** by **Hon Ken Travers**

Question Directed to the: **Leader of the House representing the Minister Assisting the Treasurer**

Minister responding: **Hon W.R. Marmion**

Parliament: **38** Session: **1**

Question

- (1) On what date did the State Supply Commission first provide its 2008-09 annual report to the Minister?
- (2) Did the Minister request any changes to the annual report prior to tabling?
- (3) If yes to (2), -
 - (a) on what date were changes requested; and
 - (b) on what date did the Agency return the annual report to the Minister for tabling?

Answer

Answered on 7 September 2010

- (1) 21 September 2009
- (2) No
- (3) (a) - (b) Not Applicable

Question On Notice No. 2567 asked in the **Legislative Council** on **30 June 2010** by **Hon Ken Travers**

Question Directed to the: **Leader of the House representing the Minister for Commerce**

Minister responding: **Hon W.R. Marmion**

Parliament: **38** Session: **1**

Question

- (1) On what date did the Workcover Western Australia first provide its 2008-09 annual report to the Minister?
- (2) Did the Minister request any changes to the annual report prior to tabling?
- (3) If yes to (2), -
 - (a) on what date were changes requested; and
 - (b) on what date did the Agency return the annual report to the Minister for tabling?

Answer**Answered on 7 September 2010**

- (1) 21 September 2009
- (2) No
- (3) (a) - (b) Not applicable

Question On Notice No. 2568 asked in the **Legislative Council** on **30 June 2010** by **Hon Ken Travers**

Question Directed to the: **Leader of the House representing the Minister for Science and Innovation**

Minister responding: **Hon W.R. Marmion**

Parliament: **38** Session: **1**

Question

- (1) On what date did the Western Australian Technology and Industry Advisory Council first provide its 2008-09 annual activity report to the Minister?
- (2) Did the Minister request any changes to the annual report prior to tabling?
- (3) If yes to (2), -
 - (a) on what date were changes requested; and
 - (b) on what date did the Agency return the annual activity report to the Minister for tabling?

Answer**Answered on 7 September 2010**

- (1) Western Australian Technology and Industry Advisory Council delivered its 2008/09 annual activity report to the Minister on Monday, 31st August 2009.
- (2) No, the Minister requested no changes to the report prior to tabling.
- (3a) - (3b) Not applicable

APPENDIX 4

CONTENTS OF THE LETTERS FROM THE FORMER MINISTER

Letter 1

5.5 This letter was dated 22 October 2009 and covered three agencies:

- the Country Housing Authority;
- the Department of Housing; and
- the Housing Authority.

5.6 In relation to these three agencies the Committee received evidence from *Answers to Questions on Notice* in the Legislative Council and responses to subsequent letters to the agencies that one agency (the Housing Authority) had changes requested to its Annual Report. The changes were returned before the prescribed tabling date of 28 September 2009.⁹

5.7 The Clerk received these three Annual Reports on 5 October 2009. They were tabled in the Legislative Council on 13 October 2009.

Letter 2

5.8 This was dated 22 October 2009 and covered six agencies:

- the Department for Commerce,
- the Real Estate Agents and Business Agents Supervisory Board,
- the Settlement Agents Supervisory Board,
- the Small Business Development Corporation,
- the State Supply Commission; and
- WorkCover Western Australia.

5.9 In relation to these six agencies, the Committee received evidence from *Answers to Questions on Notice* in the Legislative Council and in responses to subsequent letters to the agencies, that two agencies (Department for Commerce and the Small Business Development Corporation) had changes requested to their Annual Reports. They were

⁹ The requested changes were returned on 24 September 2009

both returned before the prescribed tabling date of 28 September 2009¹⁰ with one exception. This was the Settlement Agents Supervisory Board Annual Report, first provided to the Minister on 24 September 2009. An Answer dated 30 June 2010 to a Question on Notice indicates that no changes were requested to the Annual Report but correspondence from Mr Tim Banfield, Director, Settlement Agents Supervisory Board, dated 4 October 2010 states that a “*corrected version of the ...annual report was provided to the Minister on 29 September 2009*” after a substantive error had been discovered on 25 September 2009.

- 5.10 The Clerk received the six Annual Reports on 5 October 2009. They were tabled in the Legislative Council on 13 October 2009.

Letter 3

- 5.11 This letter was dated 22 October 2009 and covered one agency - the Western Australian Technology and Industry Advisory Council's Annual Activity Report. In relation to this, the Committee received evidence from a *Question on Notice* in the Legislative Council that, contrary to the former Minister's written advice, no changes were requested.¹¹ A subsequent letter from Hon Bill Marmion MLA dated 7 October 2010 explained that “*staff in the former Minister's office who may have dealt with the Annual Report in 2009 and may have had involvement in the letter dated 22 October 2009, no longer work in this office*”.¹²
- 5.12 The Clerk received the Annual Activity Report on 10 November 2009 and it was tabled in the Legislative Council on 11 November 2009.

¹⁰ The requested changes were returned respectively on 24 September 2009 and 25 September 2009.

¹¹ The Report was given to the Minister on 31 August 2009.

¹² Letter from Hon Bill Marmion MLA, 14 October 2010, p1.