

# SASB SUPERVISORY BOARD SETTLEMENT AGENTS



Annual Report  
2001 - 2002

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# SECTION 1

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## Statement of Compliance

### Statement of Compliance

JOHN KOBELKE MLA  
MINISTER FOR CONSUMER AND EMPLOYMENT PROTECTION

In accordance with section 66 of the *Financial Administration and Audit Act 1985*, we hereby submit for your information and presentation to Parliament the Annual Report of the Settlement Agents Supervisory Board for the year ending 30 June 2002.

The Report has been prepared in accordance with the provisions of the *Financial Administration and Audit Act 1985*.



Mr David Taylor  
Chairman

Date: 30 August 2002

## Our Organisation

The Settlement Agents Supervisory Board (SASB) is responsible for regulating the activities of settlement agents (conveyancers) in Western Australia so that the community has confidence in the settlement industry.

Through regulating the settlement industry, SASB provides a comprehensive range of services to the public of Western Australia. SASB administers the *Settlement Agents Act 1981*, *Settlement Agents Regulations 1982* and the *Settlement Agents Code of Conduct 1982*. In the last financial year, SASB reported to the Minister for Consumer and Employment Protection.

## Past

The *Settlement Agents Act 1981* established the SASB and the disciplinary processes for enforcing the requirements of the legislation. SASB formally came into being on 1 July 1981 with the proclamation of the Act. SASB was established in order to make provision to regulate and supervise people who effect the settlement of real estate and business transactions.

From the beginning SASB has delivered a range of services to ensure that the settlement industry provides professional services so that consumers understand their rights when engaging a settlement agent.

## Present

In the past 12 months SASB has undertaken many key initiatives including:

- Commencing free Homebuyers Seminars, including sessions in Albany and Bunbury
- Extending its telephone information service (now known as the Real Estate and Settlement Hotline) to week nights and weekends (three month pilot)
- Training SASB's investigations officers in the Certificate IV in Investigative Process
- Producing four editions of the industry newsletter *Settlement Agents News*
- Commencing development of a proposal to introduce conciliation processes for property settlement transactions
- Undertaking a review of the licensing qualifications for settlement agents

## Future

Each year SASB submits a Corporate Plan to the Minister for Consumer and Employment Protection. The Corporate Plan reflects SASB's commitment towards ensuring the community of Western Australia has confidence in the settlement industry.

In the Corporate Plan for 2001-2002, SASB recognised that it continued to face greater public expectations and significant demand for its services, following publicised failures in related industries and the growing awareness of SASB's role and functions.

The Corporate Plan aims to address the expectations of the public and to provide a clear description of SASB's main services, developing issues, current priorities and measurable targets for the 2002-2003 financial year. SASB's key objectives in 2002-2003 are as follows

### **Licensing**

- Publish new forms to facilitate the provision of sufficient information from applicants for both new licences and renewals of triennial certificates
- Continue to implement improvements to the Real Estate Management Information System

### **Compliance**

- Publish and launch a new Guide to Maintaining Trust Accounts
- Review and update SASB's *Compliance Manual*
- Continue to reduce the number of complaints which have been under investigation for over six months
- Maintain the 'no tolerance policy' in order to ensure that settlement agents who lodge their trust account audits late are promptly and appropriately sanctioned by SASB
- Monitor the quality of audits being provided by settlement agents and if necessary develop and implement a policy requiring complete audit independence between the auditor and the settlement agent
- Liaise with the Australian Institute of Conveyancers (WA Division) to develop a conveyancing guide for business settlements
- Encourage all financial institutions provide trust account data in an electronic format to enable the early detection of errors in account reconciliation

### **Education and Awareness**

- Increase public awareness of the role of SASB and educate the public on the duties and obligations of settlement agents
- Educate settlement agents of their statutory duties and obligations and to promote high ethical and professional standards of conduct
- Increase the number of proactive visits to settlement agencies from 60 to 90
- Review the success of the pilot extended hours Real Estate and Settlement Hotline and implement a continued service if required

### **Fidelity Guarantee Fund**

- Reduce the time taken to determine claims
- Develop a policy on processing Fidelity Guarantee Fund Claims from receipt by DOCEP to decision by SASB, and seek legislative amendment if necessary

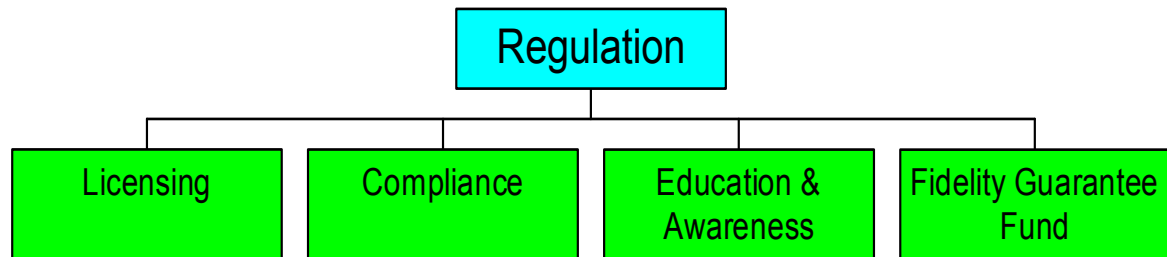


## Outcome Statement

The outcome that SASB wishes to achieve is that the people of Western Australia have confidence in the settlement industry. The 'output' or service provided by SASB to achieve the above 'outcome' is the regulation of the settlement industry through discharging SASB's statutory functions.

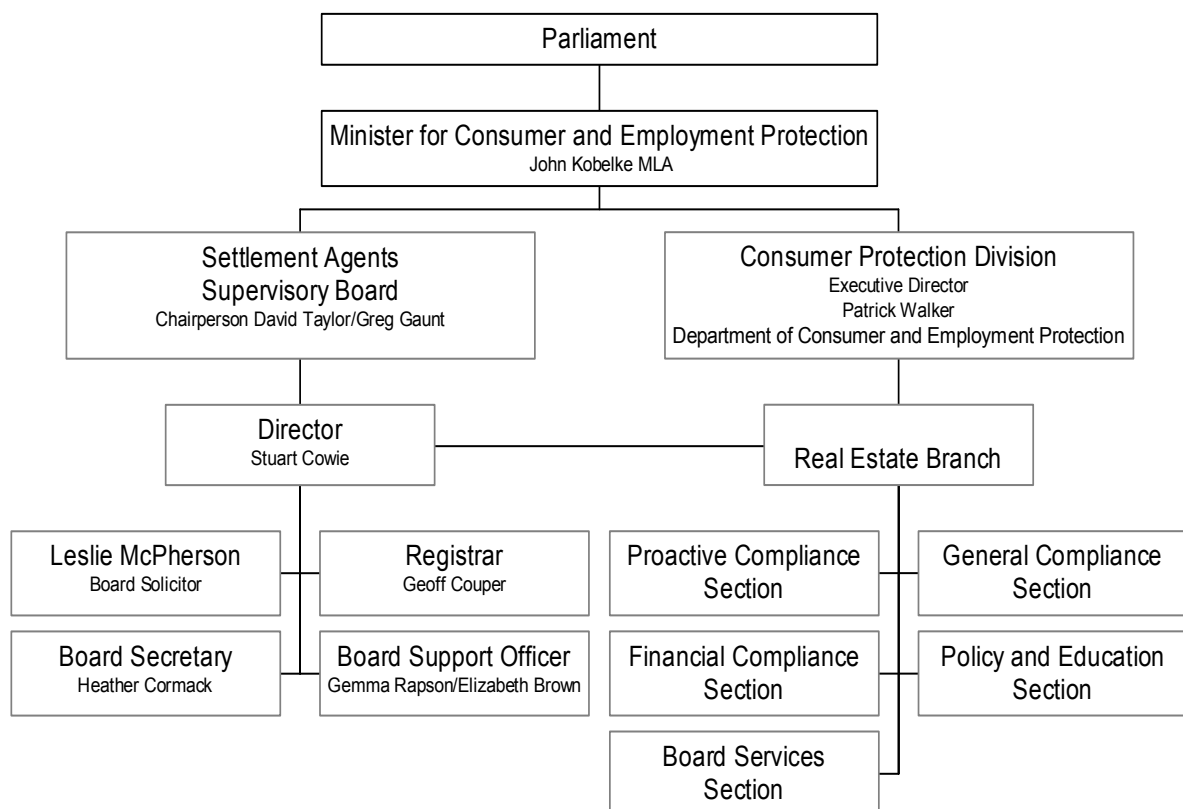
The 'output' can be divided into four components, as illustrated in Table 1, below:

**Table 1**



The activities undertaken by SASB during the year within each output component are reported on in the Report on Outputs.

**Table 2 – The structure of SASB**



## Our People

SASB employs five staff. SASB's Director, Mr Stuart Cowie (Level 8) is employed in a joint funding arrangement with the Real Estate and Business Agents Supervisory Board. Mr Cowie provides strategic advice and support to SASB and manages SASB's staff.

SASB's Solicitor, Mr Leslie McPherson (Level 7/8) provides legal advice, and is also jointly funded by the Real Estate and Business Agents Supervisory Board. Three other staff are solely employed by SASB, as shown in Table 3.

In addition to the employment of staff SASB maintains a strategic contract with the Department of Consumer and Employment Protection (DOCEP) for the provision of services, under a Service Delivery Agreement.

**Table 3: SASB Staff**

<b>Title and name</b>	<b>Public Service Level</b>
Registrar Geoff Couper	7
Board Secretary Heather Cormack	3
Board Support Officer Gemma Rapson (Until November 2001) Elizabeth Brown (After November 2001)	1

### Functions of the Director

The Director manages the Board's finances and human resources and assists SASB in long and short term planning and strategic issues. Such planning aims to provide focus and maximise the effectiveness of SASB. The major strategic planning tool employed by SASB is its *Corporate Plan*.

The Director acts as SASB's representative in negotiating and monitoring the *Service Delivery Agreement* with DOCEP for the delivery of services. The Director also liaises with SASB and the Minister for Consumer and Employment Protection regarding operational matters. In many respects the Director is equivalent to a Chief Executive Officer.

### Functions of the Solicitor

The Solicitor provides legal advice to SASB, manages legal services for SASB and is responsible for briefing external legal counsel as and when required. There is a continuing requirement for external legal counsel.

### Functions of the Registrar

The Registrar undertakes various statutory roles provided in the Act. One of the Registrar's primary functions is the management of the complaints process. This includes directions for investigation of complaints by SASB investigators and determining whether the findings from investigations should be released to the Board. The registrar administers licensing under delegated powers. The Registrar also co-ordinates education programs, develops policy standards and liaises with industry, the Minister for Consumer and Employment Protection and SASB.

## Our Customers

- Western Australian consumers
- The Settlement Industry
- The Minister for Consumer and Employment Protection
- The Western Australian Government
- Other government departments and agencies

The over-riding priority of SASB is to serve the Western Australian community and to ensure the community has confidence in the settlement industry.



## Chairman's Report

It is with great pleasure that I bring you the 2001-2002 Annual Report for the Settlement Agents Supervisory Board (SASB).

In April 2002 I commenced my term as Chairman. First, I wish extend my gratitude to the previous Chairman, Mr Greg Gaunt, for his substantial contribution to SASB. I also extend thanks to the members of SASB and to their deputies for their valuable contributions during the past year.

SASB's primary role is to protect consumers through effective regulation of the settlement industry. SASB continues to strive to improve its performance by identifying risks to consumers and to minimise those risks. The problems with the real estate agency Want and Co. remind us of the need to be vigilant at all times in monitoring settlement agent trust accounts. To this end, a priority in the coming year is to focus greater attention on the audit monitoring processes and on examining audits that are submitted late.

SASB's regulation of the settlement industry is aided by the co-operation and assistance it receives from the two industry associations, the Australian Institute of Conveyancers and the Australian Property Institute. With the assistance of those key industry bodies, together with TAFE, SASB has developed new licensing qualification standards that will increase the level of skill and knowledge settlement agents must obtain before they enter the industry. This will help to further raise the professionalism of the industry and provide protection to consumers. It is anticipated that these new standards will be implemented during the 2002-2003 financial year.

In the short time I have been Chairman, one highlight for me has been the industry seminar held on conflict of interest, attended by over 200 settlement agents. I believe it is indicative of a genuine desire by settlement agents to continually raise the standards of the industry. This highly informative as well as entertaining seminar provided agents with practical examples of conflict of interest problems that may arise and ways they may be overcome. Conflict of interest is a continuing problem in the industry and is an area in which SASB will strive to provide continuing education. Member Valerie Haskins, as well as staff from SASB and Department of Consumer and Employment Protection, arranged this highly successful event.

During 2001-2002, DOCEP conducted a review of the boards and committees under the Consumer Protection Minister's portfolio, as recommended by the Government's Machinery of Government Taskforce. The aim of this review was to examine the feasibility of incorporating the functions of these boards and committees, including SASB, into a departmental structure. We strongly believe that the interest of the consumers in Western Australia is best served by a strong, independent and well resourced SASB, and look forward to the outcome of that review.

The Government also announced recently its intention to create a State Administrative Tribunal to take responsibility for the administrative review and disciplinary functions of industry regulation boards. While SASB believes its own performance in this regard has been exemplary, nevertheless welcomes this as a positive move toward improving the efficiency, effectiveness and fairness of this arm of government. This move will also enable SASB to focus more upon its education, investigation and licensing functions.

Two new consumer education initiatives were introduced during 2001-2002 by SASB, in conjunction with the Real Estate and Business Agents Supervisory Board, as part of SASB's commitment to increasing focus on consumer education.

The first of these initiatives involved a series of free Homebuyers Seminars, which commenced in March 2002, and covered many matters prospective homebuyers often wish to know about buying a home, from valuing a property, making an offer, through to settlement. The seminars were very well attended in the Perth metropolitan area, with

approximately 200 people attending each seminar. Member Valerie Haskins provided the settlement procedure presentation at the seminars and I thank her for her support of this initiative.

The second initiative of SASB was the creation of an after hours telephone advice service known as the Real Estate and Settlement Hotline. This initiative commenced on 29 June 2002 and is available after normal business hours and on weekends to provide advice to potential homebuyers at a time when they are most likely to need it. The service is operating on a three-month trial to see if there is demand for such a service. If there is, the service will be continued.

The Homebuyers Seminars and the Hotline are two examples of SASB's increasing focus on consumer education. SASB strongly holds the view that consumers who are aware of their rights and responsibilities are best able to protect their own interests. Through increasing use of education initiatives such as the seminars and the Hotline, SASB hopes to empower consumers so that the need for SASB to intervene is minimised.

The year ahead promises many challenges, both in terms of SASB's role in regulating the settlement industry to the high standard that the community in Western Australia has come to expect, and to adapt to the changes in its functions and structure likely to arise from the Government's machinery of government reform proposals. I am confident SASB is well placed to meet those challenges in the year ahead.

Finally, I would like to thank the management and staff of the Real Estate Branch of the Department of Consumer and Employment Protection for their work and diligence in helping SASB achieve its goals throughout the year.



David Taylor  
Chairman

## Highlights in 2001-2002

- 89 investigations were assessed and acknowledged
- 35 trust accounting investigations were commenced, 29 completed
- 26 investigations into qualified audits were completed
- 60 proactive compliance visits were made to settlement agencies across Western Australia
- 4 Homebuyers Seminars were held for the general public, in collaboration with the Real Estate and Business Agents Supervisory Board
- 40 applications for new licences were processed
- 167 renewal applications were finalised
- 98% of licensing applications were finalised within 8 days, with the average licensing application taking 3.8 days to finalise
- The Real Estate and Settlement Hotline hours were extended on a trial basis
- Staff education program for investigations training were continued
- 5 disciplinary hearings were conducted by SASB

## Corporate Governance

Good corporate governance is essential for the success of any organisation, especially one like SASB, which has varied stakeholders. Corporate governance determines the way an organisation is controlled and directed. It describes the corresponding systems and practices in place to meet desired State Government outcomes. Through statutory and public sector compliance obligations, particular emphasis is placed on the role of SASB, its operation and accountability.

SASB strives to continually improve its high standards of corporate behaviour. It works to ensure the organisation acts in the best interest of its various stakeholders.

## Act Administered

- *The Settlement Agents Act 1981*

## Legislation and Statutory Reporting Compliance

In performing its functions SASB complies with the following relevant written laws:

- *Anti-corruption Commission Act 1988*
- *Disability Services Act 1993*
- *Electoral Act 1907*
- *Equal Opportunity Act 1984*
- *Financial Administration and Audit Act 1985*
- *Freedom of Information Act 1992*
- *Government Employees Superannuation Act 1987*
- *Government Financial Responsibility Act 2000*
- *Industrial Relations Act 1979*
- *Library Board of WA Act 1951*
- *Minimum Conditions of Employment Act 1993*
- *Mutual Recognition Act (Western Australia) 2001*
- *Occupational Health and Safety Act 1984*
- *Public Sector Management Act 1994*
- *State Supply Commission Act 1991*
- *Superannuation and Family Benefits Act 1938*
- *Workers Compensation and Rehabilitation Act 1981*
- *Workplace Agreements Act 1993*
- *Workplace Relations Act 1996*

## Principles of Excellence in Board Governance

A number of supporting principles act to ensure that SASB achieves its functions and conducts its operations with distinction.

- SASB is explicit about its organisational performance expectations, assigns these expectations clearly and assesses their achievement. In particular, the following performance areas are monitored:
  - Licensing
  - Compliance
  - Education and Awareness
  - Fidelity Guarantee Fund
- SASB acknowledges that it should not micro manage but rather control the definitions of success and the direction of settlement industry policy and regulation.
- SASB aims to empower its staff while preserving the controls necessary for accountability.

## Funding

SASB is funded from the interest earned on settlement agent's trust accounts, licence fees, and interest on investments. SASB purchases services from DOCEP under a Service Delivery Agreement.

## Composition

The ability of a board to add value depends on the quality and diversity of the individual members and the skills they bring. SASB's success depends on the member's ability to work collectively as a team. Consistent with principles of good governance the structure of SASB reflects the need for transparency and independence.

The Act provides that SASB is to consist of five members, including the Chairman. The current board includes:

- A Chairman
- Four other board members
- Four deputy members

SASB complies with the decision of the Royal Commission into Commercial Activities of Government and Other Matters (1992), which suggests that public sector employees should not be appointed to the board of a corporatised body while retaining a position within the portfolio of the minister responsible for that body.

SASB meets at least monthly for board meetings, and meets on other dates to conduct disciplinary inquiries into the activities of settlement agents.

SASB acknowledges that Government places significant trust in the boards of management of statutory authorities such as SASB. In return, SASB members are required to perform their duties honestly, openly and in good faith, with a high order of diligence and care.

## Function

Section 5 of the *Settlement Agents Act 1981* establishes SASB, and provides:

*For the purpose of this Act there shall be a board to be known as the Settlement Agents Supervisory Board.*

Accountable to the Minister for Consumer and Employment Protection, the functions of SASB are as follows:

- To advise the Minister as to the general administration of this Act
- To make recommendations and submit proposals to the Minister from time to time with respect to regulations to be made under this Act
- To administer the scheme of licensing and registration established under this Act
- To conduct and promote education and provide advisory services for persons who are licensed or registered under this Act, or involved in the administration of this Act, and for members of the public on:
  - matters relating to the operation of this Act
  - matters relating to the policies of SASB
  - matters relating to the operations of settlement agents or
  - any other prescribed matter
- To carry out such other functions as are conferred upon SASB under this Act

To fulfil these functions, SASB met on 15 occasions in the course of the year. The remuneration of SASB members is as follows:

- The Chairman receives \$399 for a full day, \$263 for a half day
- Other members and deputies receive \$266 for a full day, \$176 for a half day.

## Appointments and Induction

The Governor appoints members of SASB. The Minister appoints a returning officer for each election of an elective member. The Governor may appoint someone who has the prescribed qualifications of a member to the position of a deputy member.

Each elective member holds office for a period of four years and is eligible for re-election and reappointment, and each member who is not an elective member holds office for up to four years and is eligible for reappointment.

To assist new board members with their understanding of the business of the organisation an induction manual has been developed. This manual explains the basic functions of board members and describes board processes. It was completed in November 2001.

## Ethical Standards

The primary responsibility of SASB is to regulate, in the public interest, the activities of settlement agents through a scheme of licensing. The SASB Code of Conduct for Members and Officers particularly notes the role of objectivity in board processes.

Members are appointed on the basis of their individual expertise and experience as defined in the Act and are not appointed to represent a particular organisation or professional body. Members are required to perform their duties in a manner which



does not represent or protect the interests of any particular organisation they are associated with.

Other ethical responsibilities that SASB members are subject to include the *Financial Administration and Audit Act 1985* which places a responsibility on board members to ensure efficient and effective operations, maintain confidentiality and ensure compliance with statutory and legal requirements.

Other legislation relevant to ethical standards include section 85 of the *Criminal Code*, the *Freedom of Information Act 1992* and the *Public Sector Management Act 1994*. The code of conduct for members notes that SASB will prepare and retain minutes of meetings and ensure proper procedures are observed for documenting decisions.

Members and officers are subject to legislative requirements in regard to secrecy and confidentiality. They are required to maintain confidentiality and should not divulge information which is confidential or sensitive, or make public statements about SASB matters unless authorised to do so.

### Board Members

#### **Mr Greg Gaunt (Chairman until the expiry of his appointment on 31 December 2001)**

Greg Gaunt has a Bachelor of Jurisprudence from the University of Western Australia. Mr Gaunt is the managing partner of the legal firm, Phillips Fox. He has over 20 years experience as a lawyer, practising principally in the property and corporate areas.

#### **Mr David Taylor (Chairman from 30 April 2002)**

After leaving school, Mr Taylor completed a double degree in arts and education at the University of Western Australia and then entered the Royal Australian Air Force as an officer. After leaving the RAAF he was employed in the mining industry and then taught economics at secondary and tertiary level, before returning to Murdoch University to obtain a law degree.

Mr Taylor practices in commercial law, providing advice and litigation assistance property, contract and business law. He is the principal of his own law firm.

#### **Professor Valentine Pervan (Member)**

Professor Pervan is a qualified accountant by profession. Professor Pervan graduated with a Bachelor of Economics (1969) and a Master of Commerce (1973) from the University of Western Australia. He was awarded a Doctor of Philosophy from the Pacific States University in the United States in 1983.

Deputy: Mr Keith Cooke

**Ms Mirina Muir (Member)**

Ms Muir is a University of New South Wales law graduate. She has extensive experience, not only as a lawyer but also as a past member of the Board of the Queen's Trust. Ms Muir is currently working for the law firm Blake Dawson Waldron.

Deputy: Mr Mal Harford

**Ms Valerie Haskins (Elective Member)**

Ms Haskins is a licensed settlement agent elected by the settlements agents as one of two settlement industry representatives on SASB.

Ms Haskins commenced work in the settlement profession in 1977 with Agency Settlements, an agency owned by Justin Seward Pty Ltd (now known as Knight Frank). Ms Haskins managed Agency Settlements for approximately three years before moving to Strand Settlements. In November 1986, Ms Haskins established her own settlement agency, Haskins Settlements.

Deputy: Ms Barbara Brice

**Ms Jenny McGregor (Member)**

Ms McGregor is a licensed settlement agent elected by licensed settlement agents as one of two settlement industry representatives on SASB.

Upon obtaining her settlement agent's licence, Ms McGregor worked at Baillieu Knight Frank, Perth, as Manager of their settlement agency. For the past 14 years, Ms McGregor has owned and managed McGregor Settlements.

Deputy: Mr Peter Maro



**The Settlement Agents Supervisory Board**

(Standing l to r Marina Muir, Jenny McGregor and Valentine Pervan)  
(Seated l to r David Taylor and Valerie Haskins)

## Sub-Committees

The SASB's Education Advisory Committee was constituted within the financial year, principally to bring about a review of the educational requirements for the licence qualifications. The Committee also considers related issues, such as how best to support and improve the educational standards of the settlement agents industry. The Committee provides recommendations to SASB on funding grants for education.

## Policy Development

Since its establishment in 1981 the central aims of SASB have been to:

- Administer the licensing system for settlement agents
- Conduct and promote education and provide advisory services
- Act as a disciplinary tribunal and conduct inquiries into allegations about settlement agents
- Administer the Fidelity Guarantee Fund
- Recommend amendments to the Regulations to the Act
- Advise the Minister for Consumer and Employment Protection on the administration of the Act

In 2001-2002 SASB achieved its policy development and implementation goals. Specifically it:

- Extended the telephone information service (now known as the Real Estate and Settlement Hotline) so that it will operate on weekdays from 8:30am until 8.00pm, Saturdays from 9.00am until 4.00pm and Sunday 12.00 noon until 4.00pm. SASB and REBA are jointly funding the extension of the service beyond normal business hours as part of a three month pilot program that commenced on 29 June 2002.
- Produced four editions of the *Settlement Agents News* industry newsletter
- Commenced development of a proposal to introduce conciliation processes for property settlement transactions
- Commenced a review of the licensing qualifications for settlement agents
- Presented a report on the introduction of compulsory continued professional development for settlement agents

SASB policy development and implementation process greatly assists in providing a coordinated approach to planning, management and consistency across the organisation. In turn it adds significant value to SASB customer service delivery.

## Service Delivery Agreement

SASB contracts DOCEP to provide many of its services under a Service Delivery Agreement. The organisational structure and reporting responsibilities between SASB and DOCEP are as follows:

The services SASB purchases from DOCEP include:

- Education

- Policy
- Investigations
- Licensing
- Corporate services

The SDA describes the required services in output terms, consistent with Treasury and Auditor General standards, and defined performance measures to be reported by DOCEP to SASB in terms of cost, timeliness, quality and quantity.

SASB takes its responsibility to ensure a high-level of service delivery extremely seriously. SASB's quarterly review of performance measures of services provided by DOCEP has found that, on the whole, services have met the performance measures.

### Internal Audit

SASB internal auditing practice conforms to contemporary internal audit ideals and best practice models. They determine audit responsibilities, structures and relationships for audit committees and the internal audit function. SASB contracted DOCEP to provide central audit services for SASB in 2001-2002.

### Information Statement

The *Freedom of Information Act 1992* gives consumers the general right of access to SASB documents, although there can be exceptions.

SASB endeavours to make its operations as transparent and accessible as possible. To this end, a significant amount of information is included on its website (<http://www.sasb.wa.gov.au/>). Information available includes:

- Background of SASB members
- Links to the Act, Code of Conduct and Regulations that regulate the settlement industry
- Licensing and registration information
- Copies of Board decisions
- Information about the Fidelity Guarantee Fund
- A list of SASB publications
- A calendar of SASB meetings and Inquiries
- Information about how to lodge a complaint

Publications available on SASB's website include:

- Property settlement fact sheet
- Choosing a settlement agent fact sheet
- Schedule of Settlement Agents Fees

The publications can also be requested free of charge from the Real Estate and Settlement Hotline on 1300 30 40 64 in a variety of formats, including those designed for people with disabilities.

Other publications available on the website include:

- The Settlement Agents News

- Audit Guidelines
- Corporate Plan
- Annual Reports
- Disability Services Plan

### Freedom of Information Requests

During 2001-2002 there was one Freedom of Information request, which was not granted. This compares with two requests in 2000-2001. These Freedom of Information matters relate only to requests on those matters where SASB has had direct involvement. Requests in relation to investigations carried out by the DOCEP on behalf of SASB but not referred to SASB are reported in the Department of Consumer and Employment Protection's annual report.

All Freedom of Information requests are to be made in writing and addressed to:

FOI Coordinator  
Locked Bag 14  
Cloisters Square  
WA 6850

A Freedom of Information application form is required to be filled in when making a request. The Freedom of Information Coordinator may be contacted on 9282 0957 to provide further information.

### Expenditure incurred within Section 175ZE of the Electoral Act 1907

The *Electoral Act 1907* requires government agencies to report on expenditure incurred by the agency in relation to payment of:

- Advertising agencies
- Market research organisations
- Polling organisations
- Direct mail organisations
- Media advertising organisations

Northside Distributors were paid \$285.26 and Australia Post were paid \$765.34 to direct mail four quarterly newsletters to licensed agents.

### Statement of Compliance with Public Sector Standards

In the management of its staff, SASB has complied with the Public Sector Standards in Human Resource Management and the Western Australian Public Sector Code of Ethics.

During 2001-2002, SASB received no applications alleging breaches of standards. No applications are under review. In addition, SASB:

- Received no workers' compensation claims
- Did not redeploy any of its staff
- Has not terminated any positions

- Is not aware of any industrial disputes

Since SASB began employing its staff directly, it committed to reviewing and developing human resources policies. SASB adopted the policies outlined below, which will be monitored and reviewed on an annual basis to ensure that the plans achieve their objectives.

### Equal Opportunity Management Plan

This plan was developed because, as an employing authority that also provides education and services to the public, SASB has a statutory duty to ensure that no forms of unlawful discrimination occur. The plan commits to reviewing standard practices and ensuring that SASB staff are aware of equal opportunity issues.

### Occupational Health and Safety

The Occupational Health and Safety Management Plan outlines strategies that will ensure that:

- Workplaces are safe and do not damage employees' health
- Appropriate information, instruction, training and supervision is provided so that employees can perform their work
- The work place is regularly checked for safety, and a record kept of what is found during these checks

### Public Sector Code of Ethics

SASB values underpin the achievement of ethical conduct throughout the organisation. These values are detailed in a booklet - "the Real Estate and Business Agents Supervisory Board and the Settlement Agents Supervisory Board Code of Conduct for Members and Officers."

It is normal practice for new members or officers to be provided with a copy of the Code. The Code of Conduct values are the foundation for SASB's strategic management, future operations and modes of behaviour. They are compatible with ethical principles, values and behaviour embodied in the Western Australian Public Sector Code of Ethics. By adhering to the values, employees of SASB will be complying with the Code of Ethics.

### Self Assessment

The self-assessment model established by SASB in relation to the Public Sector Standards and Code of Ethics revealed overall compliance with the requirements during 2001-2002.

### Disability Services

The purpose of SASB's Disability Services Plan is to ensure that people with disabilities, their families and carers can readily access the services provided by SASB.

It contains:

- A policy statement which commits to analysing and improving SASB services to allow ready access for people with disabilities, their families and carers
- A description of the structure and functions of SASB, and an overview of the people who use SASB services and are regulated by SASB



- The identification of barriers to people with disabilities in accessing services provided by SASB
- A plan that outlines how the Disability Services Plan will be communicated, both to staff and the general public

SASB acknowledges and supports the principles applicable to people with disabilities stated in Schedule 1 of the *Disability Services Act 1993*. SASB is committed to a regular development of its Disability Services Plan to ensure that any existing barriers to people with disabilities are remedied. The Plan was developed to ensure that the following five outcomes, which are required by the *Disability Act 1993*, are achieved:

- Existing services are adapted to ensure they meet the needs of people with disabilities
- Access to buildings and facilities are improved
- Information about services is provided in formats that meet the communication requirements of people with disabilities
- Information and services are delivered by staff who are aware of and understand the needs of people with disabilities
- Opportunities are provided for people with disabilities to participate in public consultations, grievance mechanisms and decision making processes

This Disability Services Plan applies to Members of SASB and staff members of SASB, and has been distributed to both staff and the general public through the use of a wide range of media. A copy of the Plan is available on the SASB website. The Director of SASB will assess feedback to the Plan, and if changes are necessary, will ensure that the plan is amended.

## SECTION 2 Report on Outputs

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## Output 1 - Licensing

---

### Strategic Goals

- Settlement agents are persons of good character and are fit to hold a licence
- Settlement agents are aware of their duties and obligations
- Applications for licences, triennial certificates and renewals of licences are processed in a timely manner

### Highlights

- 40 applications for new licences were processed
- 167 applications for renewal were processed
- 98% of applications were finalised within 8 days, with the average taking 3.8 days
- A new licensing kit was developed to ensure that all new real estate settlement agents are fully aware of the licensing requirements and their obligations under the *Settlement Agents Act 1981*

### An overview

In order to arrange settlements or to carry on business as a settlement agent, a person must hold a licence and current triennial certificate granted by SASB. A triennial certificate is a practising certificate that is issued automatically on grant of a licence and may be renewed every three years.

Applications are approved if the applicant is a fit and proper person to hold a licence. An interview is held where SASB has concerns about the suitability, experience, or qualifications of an applicant. At these interviews, a new applicant must demonstrate that they are able to meet the criteria outlined in the Act for obtaining a licence. One of the criteria for the issue of a licence includes the applicant having had sufficient practical experience in negotiating settlement transactions in the preceding two years.

In addition to licences for individual settlement agents, the Act also requires that separate licences are obtained by firms (partnership licence) and companies (body corporate licence) which are set up as settlement agencies. For firms and companies to be licensed, or continue to be licensed, they must meet and maintain certain standards, including a minimum number of licence holders, staff supervision and sound financial practices.

During the year, SASB processed a total of 40 new licence applications. The fees involved for a new application for a licence include the cost of the triennial certificate and a contribution to the Fidelity Guarantee Fund. The total fees are \$483 for an individual licence, partnership or body corporate.

New applications and renewals for settlement agent licences and triennial certificates are received and entered into a database with all the details of licensed real estate and business settlement agents.

### Holding Fee

A settlement agent who does not wish to carry on business in the foreseeable future may choose to pay a holding fee within 60 days of the expiry of the triennial certificate.

Settlement agents who have previously paid a holding fee can continue to do so. This ensures that the settlement agent's licence remains current. The fee payable by agents to put their licence on "hold" is \$150.

The number of inactive settlement agents who had their licence on "hold" was 142, comprising 134 real estate settlement agents and eight business settlement agents.

### Mutual Recognition

Under the *Mutual Recognition Act (Western Australia) 2001*, SASB may issue licences to conveyancers who have operated in other states in Australia. The recognition legislation seeks to promote the mobility of the Australian workforce by permitting licensing authorities in Western Australia to grant a licence to applicants who are already licensed as a conveyancer in another jurisdiction.

SASB did not grant any licences under mutual recognition during 2001-2002.

### Real Estate Management Information System (REMIS)

The Real Estate Management Information System (REMIS) has been operational since January 2001. Work is continuing on the further development of REMIS. Some enhancements are being added and some function problems are being addressed so that they can be resolved. To this end, a business systems analyst, dedicated to work solely on REMIS, was employed in a joint arrangement by SASB, the Real Estate and Business Agents Supervisory Board and DOCEP.

## Output 2 - Compliance

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### Intended Outcomes

- Settlement agents comply with the requirements of the Act
- The settlement industry delivers ethical and professional services
- Action is taken against settlement agents who fail to comply with the requirements of the Act
- Areas of concern are investigated
- Audits are received on time and are not qualified

### Highlights

- 89 investigations were assessed and acknowledged during the year
- 35 new trust fund investigations were commenced
- 26 investigations into qualified audits were completed
- 8 Inquiries were held
- Accredited Certificate IV investigation training for investigators was continued

### Overview

The Act provides a protective scheme which both prohibits and prescribes certain behaviours by settlement agents. Compliance with these behavioural standards ensures the delivery of ethical and professional services. Where there is sufficient evidence of a breach of the legislation, an investigation can result in an Inquiry before SASB.

### General Compliance

In circumstances where the complaint is found to have some basis but is not a significant breach, the matter may be resolved by an educational warning, administrative warning or education. Serious complaints about settlement agents may proceed to a formal Inquiry before SASB. Where an allegation is upheld, SASB may impose fines of up to \$10 000, order legal costs to be paid, issue a reprimand, and suspend or cancel the licence of a settlement agent.

**Table 4: Complaint Statistics 1998-2002**

Financial year	1998-1999	1999-2000	2000-2001	2001-2002
Complaints from public and Registrar which were investigated as possible breaches of the Act	76	115	58	89

As Table 4 indicates, the number of general complaints about settlement agents received from the public and those directed by the SASB Registrar this year was 89, a 53% increase from the previous year.

The increase in the number of complaints cannot be attributed to any particular cause or problem area. The increase represents a levelling out after the sharp drop in the number of complaints in the previous year. Overall, there were four main areas where vendors and purchasers have brought their concerns to the attention of SASB. These were:

- When it has been alleged that the settlement agent failed to act in the client's best interest. (This category includes complaints where the settlement agent has acted for both parties and a conflict of interest has arisen)
- The agent failed to obtain or provide pertinent information to their client
- The calculation of rates and taxes
- Unlicensed trading (This is where unqualified and unlicensed friends or family members conduct settlements on behalf of the vendor or purchaser)

### General Compliance Case Study: Conflict of Interest

Settlement agents are required to act in the best interests of their client. Settlement agents are allowed to act for both purchaser and vendor in a real estate transaction, but acting for both parties increases the chances that a conflict of interest will occur. The following case study is an example of the type of conflict of interest that can occur when a settlement agent works for both parties.

A purchaser, who was overseas, entered into a contract to purchase a WA property. XYZ Settlements acted for both the purchaser and the vendor. XYZ Settlements couriered a Transfer of Land form overseas to the purchaser. The covering letter instructed the purchaser to ensure that the signature on the Transfer of Land form was witnessed. However, an outdated Transfer of Land form was provided, which could only be witnessed by a very narrow range of professionals. The purchaser was also requested to return all documents urgently to avoid any delays.

While the purchaser struggled to find a suitable person to witness the Transfer of Land, the vendor told XYZ Settlements that penalty interest would be claimed if settlement was delayed. This was the start of a potential conflict of interest for XYZ Settlements, because the best interests of one client (the vendor receiving penalty interest) was not in the best interests of the other.

Settlement did not happen on the agreed date because the Transfer of Land form had not been returned from overseas. At this point, XYZ Settlements should have ceased to act for both parties, because there was a conflict of interest. However, XYZ Settlements continued to act for both parties and tried to contact the purchaser to advise that penalty interest was now accruing.

Another conflict of interest issue arose when the real estate agent involved in the transaction contacted XYZ Settlements. The real estate agent offered to pay up to



\$1 000 of any penalty interest incurred but stipulated that neither the vendor nor purchaser be advised about this arrangement.

XYZ Settlements later wrote to the purchaser and the vendor and advised them that due to a potential conflict of interest, it was necessary for both parties to seek a new settlement agent or solicitor.

The purchaser incurred penalty interest and legal fees.

In an Inquiry into this matter, SASB found that although XYZ Settlements had ceased to act for both parties, they had delayed too long to do so. They also found that XYZ Settlements continued to act for both vendor and the purchaser having withheld information from both the vendor and the purchaser, and had failed to recommend that the purchaser and the nominee obtain legal advice, in contravention of the Code of Conduct.

XYZ Settlements were required to pay a fine of \$1 000 and costs of \$700.

## Financial Compliance

Every licensed settlement agent who holds a current triennial certificate, and carries on business as a settlement agent during the whole or any part of a year, must have their trust account audited by a registered company auditor. The audit report must then be provided to SASB. Those settlement agents who hold a licence and current triennial certificate but did not carry on business as a settlement agent during the year must submit a statutory declaration to that effect.

Irregularities in the trust account are an important first indicator of the standard of operations of a settlement agent. The audit review and follow up process is therefore a key regulatory measure undertaken by SASB. In the 2001-2002 year, there were 35 new trust fund investigations, and 21 new qualified audit investigations, a combined total of 56. As Table 5 indicates, this has increased over several years.

**Table 5 – Financial Compliance Investigations**

Financial year	1999-2000	2000-2001	2001-2002
Audit report and Trust Account Investigations commenced	31	46	56

## Case Study: Financial Compliance

An agent became aware of an overpayment made by the agency that resulted in a deficiency in the agent's trust account. The agent allowed the trust account to remain deficient while he proceeded to take recovery action.

The agent was brought before SASB on Inquiry for breach of section 49(4) - unauthorised use of trust moneys and section 49(6) - failing to correctly balance the trust account at the end of each month. SASB found the agent to be in breach of the Act.

SASB was of the view that the trust account must correctly balance at all times and that the agent is responsible for any deficiency. The agent was required to pay a \$4 000 fine and costs of \$1 600, and is subject to a special order which specifies that his trust accounts must be audited every six months.

## Output 3 - Education & Awareness

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### Intended Outcomes

- Settlement agents are aware of their duties and obligations
- Consumers are aware of their rights
- The Minister for Consumer and Employment Protection is advised on the administration of the *Settlement Agents Act 1981*

### Highlights

- Continuing staff education program for investigations training
- 60 proactive compliance visits to settlement agencies
- 96% of all real estate telephone calls were answered within two and a half minutes
- 4 Homebuyers Seminars were run for the general public in partnership with the Real Estate and Business Agents Supervisory Board:
- SASB hosted a hypothetical settlement seminar for settlement agents at the Broadwater Pagoda Hotel on 5 June 2002 for approximately 200 agents
- The extended hours Real Estate and Settlement Hotline was launched
- Production and distribution of a revised version of the Property Settlement fact sheet
- Production and distribution of a new fact sheet entitled *Choosing a settlement agent*
- Continual updates of the SASB website for quick and easy dissemination of information to settlement agents and consumers
- A solicitor has been employed in-house to advise the SASB on legal matters
- A sub-committee was formed to review the licensing qualification requirements for settlement agents

### Overview

SASB develops and approves its policies during monthly meetings and in the decisions it makes following an Inquiry. The SASB Policy Manual contains SASB's key policy decisions.

In educating the industry about the legislation, SASB policy and settlement matters generally, SASB provides a broad range of education and advisory services for industry members and consumers. These services include proactive

agency visits, education seminars, a quarterly newsletter, telephone information and a website.

## Proactive Compliance

SASB expanded its proactive compliance program during 2001-2002. The program involves specialist officers working in conjunction with settlement agents to improve systems that promote compliance with the Act and the Code of Conduct.

60 agencies were visited during 2001-2002, 8% of which were in regional areas. The number of agency visits has increased slightly from the 59 agencies visited in the previous financial year.

One of the major benefits of a proactive compliance program is the opportunity to identify trends in compliance issues which can be the subject of educational initiatives for all settlement agents.

During 2001-2002, the Proactive Compliance Officers identified the following concerns:

- Agency licence not displayed
- Trust account designated incorrectly
- Trust account not reconciled on a monthly basis
- Appointments to act: (Acceptance of appointment not signed by agency, deletions not made where required, acknowledgement of receipt of appointment not signed)
- Free title searches given to real estate agents in breach of section 44 (8)

During the financial year, many of these issues have been the subject of educational initiatives, including articles in the SASB newsletter, the *Settlement Agents News* and during seminars hosted by SASB.

## Proactive Seminars

During 2001-2002, a major education seminar for settlement agents was organised at the Broadwater Pagoda Hotel on 5 June 2002. This event presented a hypothetical settlement that was plagued with conflict of interest problems. This approach helped to portray this complex subject in a way that was both informative and entertaining. The event was well attended and received.

Bunbury and Mandurah also benefited from Conflict of Interest seminars, on 11 and 18 June respectively.

## Homebuyers Seminars

SASB worked in partnership with REBA to present four Homebuyers Seminars for the general public. Two of these were held in the metropolitan area, one in Bunbury and one in Albany.

These informative seminars presented a wealth of valuable information for homebuyers, including property valuation, finance, available grants and offer and acceptance contracts.

Presenters were senior officials and experts from SASB, REBA, DOCEP and the Valuer General's Office.

## Telephone and Counter Information Service

During 2001-2002, the Hotline received 3 455 calls, regarding real estate matters generally. The service standard requires 85% of telephone calls to be answered within 2.5 minutes. During 2001-2002 this goal was surpassed, with the Hotline answering 96% of all telephone calls within 2.5 minutes.

SASB also provides a counter information service during business hours. During 2001-2002, 77 counter queries were received in relation to settlement matters.

## Real Estate and Settlement Hotline

On 29 June 2002 a pilot of the extended hours Real Estate and Settlement Hotline was launched. The Hotline extends the service to an after-hours service which is jointly funded by SASB and REBA. The after-hours phone hotline provides information to homebuyers when most are actually buying - after hours and on weekends. The hotline supplements the weekday call centre and is currently undergoing a three month trial. In addition to business hours, the call centre will now also operate 5pm to 8pm Monday to Friday, 9am to 4pm Saturdays and 12 noon until 4pm on Sundays. This program is a three month pilot, that will be evaluated at a future date to establish whether there is sufficient demand for this service.

## Board Website

In early June 2001, the SASB website “went live.” In a recent survey of the settlement industry, 25.9% of respondents had accessed the SASB website ([www.sasb.wa.gov.au](http://www.sasb.wa.gov.au)). This website is updated frequently, and includes the following information:

- The role and function of SASB, its relationship to DOCEP and contact details
- Links to the Settlement Agents Act 1981 and the Settlement Agents Regulations 1982 and a consolidated version of the Settlement Agents Code of Conduct 1982
- Various forms and applications which can be downloaded
- A list of dates for upcoming SASB meetings
- Updates of upcoming seminars
- Electronic versions of the Settlement Agents News, the latest edition of the Annual Report and SASB’s Corporate Plan

SASB’s website address is: [www.sasb.wa.gov.au](http://www.sasb.wa.gov.au)

## Publications

### *The Settlement Agents News*

SASB produces an industry newsletter known as the *Settlement Agents News* that is sent to all licensed settlement agents to promote industry standards and highlight topical issues. SASB produced four editions of the newsletter during 2001-2002. An industry survey indicated that 94.8% of respondents were either satisfied or very satisfied with the newsletter.

### Settlement Fact Sheets

During 2001-2002, SASB decided to split the *Property Settlement* fact sheet and create a new fact sheet entitled *Choosing a settlement agent*. This fact sheet provides

consumers with general information about choosing a settlement agent and outlines their role in a property transaction.

SASB continued to produce and distribute a fact sheet for consumers entitled *Property Settlement*. This fact sheet now provides additional information to consumers about their rights and obligations throughout the process of settlement but no longer deals with the issue of choosing a settlement agent.

### Fees and Charges

During the 2002, SASB undertook a review of the fees and charges for new licence application and triennial certificates. SASB did not raise fees and charges during 2001-2002. The next review of prescribed fees and charges under the Act will occur in early 2003.

### Education Advisory Committee

During 2001-2002, SASB resolved to create an Education Advisory Committee to provide advice on education and licensing qualification matters. The Committee is comprised of Chairman Valerie Haskins (SASB elective member), Ms Koo Lloyd-Kane (Vice-President, Australian Institute of Conveyancers, WA Division), Ms Janet Griffiths (Independent Settlement Agents Association), Mr John Jasiak (Lecturer and Program Coordinator TAFE), and Mr Geoff Couper (Registrar).

On 22 January 2002, the first meeting of the Committee was held. The Committee has been primarily concerned with new national training package for agents and with reviewing licensing qualification requirements. The Committee has recommended to SASB that the Certificate IV in Conveyancing be replaced by a new licensing qualification. The current education standards have been in place since 1988 and require updating.

In conjunction with Central TAFE, the Committee has been developing a new training package for settlement agents. The new qualification is expected to be fully operational by January 2003.

## Education Funding

SASB paid \$22 780 to Central Metropolitan TAFE for re-writing the course text and open learning study guidelines for the licensing course Certificate IV in Conveyancing. These flexible learning materials are designed for people studying outside the metropolitan area. SASB has copyright over the material, and are to be consulted in the review process.

## Quality Investigations Training

During 2001-2002, SASB provided investigations training for SASB investigations staff. The program comprises knowledge of legal requirements and standard procedures necessary to undertake investigations. The course incorporates specific information about conducting an investigation on behalf of SASB and uses some settlement case studies. Personal work management skills are also covered, such as file management and techniques for managing multiple cases.

The costs are shared proportionally with both REBA and DOCEP. The training addresses one of the recommendations of the Gunning Committee of Inquiry, which suggested the “establishment of comprehensive and ongoing training in investigations skills for all investigation staff engaged in occupational licensing and regulation.”

## Quality Customer Services

During the 2001-2002 year, staff from the Real Estate Branch took part in Customer Service and Process Improvement training. The training is designed to provide staff with an integrated and quality customer service focus. This training, which commenced in April 2001 and was completed in September 2001, was a Department of Consumer and Employment Protection initiative aimed at ensuring an integrated and quality customer service focus across the whole of the Department.

Theoretical and practical training covered issues such as customer relationship management, principles of effective communication and dealing with difficult customers. The essential role of processes to manage and improve service delivery was also considered.

## Quality Legal Advice

During the course of 2001-2002, SASB took steps to maintain a high standard of timely legal advice. SASB jointly funded an in-house solicitor with REBA. SASB also put together a legal panel from solicitors and law firms approved by the State Supply Commission. From time to time, legal work is briefed out to these parties to ensure the quality and timeliness of legal advice regardless of variations in workload.



## Regulatory Reviews

SASB administers real estate and business settlement legislation and government real estate and business settlement policy in Western Australia. DOCEP is primarily responsible for the development of new legislation for the regulation of the real estate and business settlement industry. However, due to its position as regulator and through the legal, property settlement and financial expertise of its members, SASB provides key input into any recommendations for legislative change that are presented to the State Government.

One of SASB's functions is to advise the Minister for Consumer and Employment Protection on issues relating to the administration of the *Settlement Agents Act 1981*, and to make recommendations about amendments to the regulations made under the Act. The Minister reviews these recommendations and decides whether to proceed.

SASB requested and considered a broad range of legal opinions on the interpretation of the legislation. These legal opinions ranged from advice on the legal requirements placed on agents, to matters necessary to SASB's administration of the Act.

## Machinery of Government Taskforce

In March 2001, the State Government established a Machinery of Government Taskforce to review the number of departments, statutory authorities, boards and committees in the Western Australian public sector and to recommend a package of proposals that would enhance the operation of the machinery of Government.

In its Report, titled *Government Structures for Better Results* and released in June 2001, the Taskforce considered the functions performed by many statutory authorities and made, inter alia, the following recommendation:

*"The functions of each statutory authority in the Western Australian public sector should be reviewed by 1 July 2002 to assess the appropriateness and feasibility of incorporating those functions into departments of State..."*

## Review of Consumer Protection Boards and Committees

In November 2001, the Minister for Consumer and Employment Protection requested that a review be conducted of Consumer Protection boards and committees, including SASB, as recommended by the Machinery of Government Taskforce. In February 2002, DOCEP released an Issues Paper for this purpose, with submissions closing on 5 April 2002.

SASB submitted to the review that the majority of the Boards and Committees within Consumer Protection (including SASB) are regulatory Boards, unlike most other statutory authorities in the Western Australian public sector. There are many important reasons why the regulatory functions have been entrusted to these Boards and not to departments of State. The foremost reasons are that this structure frees the regulator from political interference, permits the development of long-term policies, and provides greater flexibility and efficiency than is possible under rigid public sector rules.

The Courts have also frequently recognised the expertise of industry specific Boards in regulating occupational licensing. For example, making a decision in the District Court Appeal No. 36 of 1989, the Judge said:

*“This Court is slow to interfere with the exercise of the discretion of a statutory watchdog lest the Court impose a standard it is less qualified to formulate than a body of persons such as those who constitute the Board”.*

National and international experience has also clearly demonstrated that when the functions of statutory regulatory Boards are transferred to departments of State, there is a significant diminution of regulation in industry. SASB considers that it represents informed community input into the administration of the real estate and business settlement industry and that it is an efficient and effective mover in the public interest for the following reasons:

- SASB is not politically partisan
- The varied and practical experience of SASB members enables them to come to grips with the property settlement industry in a way that a department of State cannot hope to achieve given the breadth of their responsibilities
- SASB is independent
- SASB directs and drives the efforts of the public service in regulating the settlement industry in a commercial-like manner through its Service Delivery Agreement with the Department of Consumer and Employment Protection
- SASB advances the public interest unhindered by sectional interests

The purchase of real estate is the most significant expense that most consumers will make in their lifetime. Western Australians expect strong and effective regulation of this important industry. The current regulation of the settlement industry by SASB is both efficient and effective. There is no clear evidence that any alternative model of regulation will better protect consumers in Western Australia.

### State Administrative Tribunal

In May 2002, the Western Australian Civil and Administrative Review Tribunal Taskforce released its final Report. The Report recommended that a tribunal to be called the State Administrative Tribunal be established.

The State Administrative Tribunal would assume the civil or administrative review functions of a number of administrative tribunals and courts, including the disciplinary and supervisory functions of occupational boards such as SASB.

SASB supports the transfer of its disciplinary functions to the proposed State Administrative Tribunal, as this will improve the efficiency of government and enable SASB to concentrate on its licensing, investigative compliance, Fidelity Guarantee Fund and education functions.

### National Competition Policy

A National Competition Policy Review of the Act conducted by DOCEP commenced during 1998-1999. The review involves consideration of the legislative requirements that restrict competition to determine whether they protect the public interest or whether they should be removed.

DOCEP has finalised the review and produced a final report including recommendations for change. This report has been forwarded to the Expenditure Review Committee, which has accepted the recommendations. The report also recommends that before Cabinet approval is sought to implement change, that the report be released for public comment. It is anticipated that the report will be released in the latter half of 2002. SASB keenly awaits the commencement of consultation and is eager to participate in the development of proposals for reform.

## Output 4 - Fidelity Guarantee Fund

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### Intended Outcomes

- Persons are reimbursed who have suffered a loss from the defalcation of a licensed settlement agent

### Highlights

- 1 claim lodged, with the preliminary report being prepared within the 8-week target.

### Overview

The Fidelity Guarantee Fund is administered by SASB and can provide compensation for people who have lost funds through the criminal or fraudulent actions of a settlement agent or an employee of a settlement agent, in the course of a settlement transaction. The Fund is established under section 87 of the Act.

The criteria for application to the Fund 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 licensed settlement agent, or their employee
- The licensed agent held a current licence granted under the *Settlement Agents Act 1981*
- The loss occurred in relation to the settlement transaction

### Source of Funds

The money in the Fidelity Guarantee Fund comes from:

- contributions paid into the fund by licensed settlement agents;
- income derived from investment of the Fidelity Guarantee Fund
- the transfer to the Fund of a portion of the monies from the Board Interest Account.

The Act stipulates that Fidelity Guarantee Fund contributions be paid by agents whenever they apply for a licence or renew their triennial certificate. This contribution is currently set at \$140.

After a claim is received, it is reviewed and an investigation report is considered. In 2001-2002 there was only one claim made against the fund for an amount of \$23 492.26. This claim was subsequently disallowed. Table 6 shows the total number of claims lodged in recent years.

**Table 6 – Fidelity Guarantee Fund Claims Lodged**

Financial year	1999-2000	2000-2001	2001-2002
Number of claims	4	5	1

A claim lodged in one financial year may not be resolved until a following year. Accordingly, at the end of the 2001-2002 financial year there remained seven unresolved claims totalling \$2 399 827.68. Many of these are awaiting settlement of related civil actions or relate to similar claims lodged against the Real Estate and Business Agents Supervisory Board Fidelity Guarantee Fund.

The current reserve in the Fund is \$8 967 402.00

## SECTION 3 Performance Indicators

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## Certification of Performance Indicators

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We hereby certify that the performance indicators are based on proper records are relevant and fairly represent the performance of the Settlement Agents Supervisory Board for the financial year ended 30 June 2002, and are relevant and appropriate for assisting users to assess the Board's performance.



**David Taylor**  
Chairman



**Valerie Haskins**  
Member

19<sup>th</sup> November 2002



## Statutory role of the board

The Board acts in the public interest as the supervisory authority for settlement agents in Western Australia. The statutory function required of the Board is to regulate the behaviour of settlement agents in terms of the manner in which they conduct themselves when entering into or assisting in settlement transactions.

## Outcome

At the highest level, the outcome of the Board is:

**The people of Western Australia (both industry and the public) have confidence in the settlement industry.**

## Effectiveness Indicator

***The extent to which settlement agents comply with the requirements of the Settlement Agents Act 1981 in relation to the management of their trust accounts.***

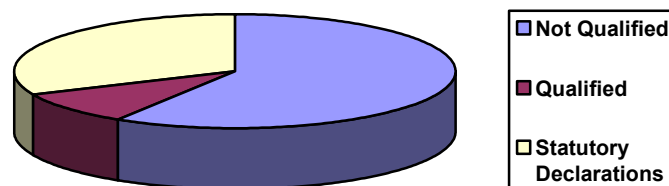
This effectiveness indicator has been chosen because the management of trust accounts by agents is a key indicator of their performance in general and is accepted as providing a reliable indication of the extent to which settlement agents comply with the requirements of the *Settlement Agents Act 1981*. The effectiveness indicator was also chosen because there is an independent audit of agents' performance in this area.

## Measure

The proportion of settlement agents that submit an unqualified audit or a statutory declaration.

$$\frac{\text{No. agents who submitted audit report - not qualified) + (No. agents who submitted statutory declaration)}}{\text{Total no. of agents}}$$

	1998-99	1999-00	2000-01	2001-02
Audit Reports - Not Qualified	251	234	247	208
Audit Reports - Qualified	20	29	37	34
Statutory Declarations	111	116	98	112
No report				5
Total agents	382	379	382	359
<b>% of agents that submit an unqualified audit or statutory declaration.</b>	<b>94.8%</b>	<b>92.3%</b>	<b>90.3%</b>	<b>89.1%</b>



2001/2002

### Notes to the indicator

Agents are required by the Act to conduct financial transactions on behalf of their principals (clients) through a trust account. Those trust accounts must be audited annually for the year ending 30 June and submitted to the Board by 30 September of that year. Consequently this indicator is reporting on agent's performance in the previous financial year.

If a licensed agent (individual) conducts no transactions (a licensed agent may work for a company and it is the company's trust accounts which are then audited), then the agent must submit a statutory declaration confirming this.

The effectiveness of compliance activities of the Board, in positively influencing the behaviour of industry participants, is measured by the level of agents' compliance with the requirements of the Board and the Act.

It is important, in order to influence the behaviour of the industry, that the Board attempts to ensure that industry practices, about which industry customers complain, are properly examined to identify illegal or unprofessional practices.

The Board is concerned about the number of agents who either receive a qualified audit or who fail to submit an audit report. As a result the Board has implemented a 'no tolerance' policy with regard to agents who fail to comply with trust account auditing provisions, which has resulted in agents receiving sanctions including fines, suspensions or cancellations of their licences.

In the 1997-1998 financial year the Board issued new guidelines to auditors which has most likely resulted in a far more rigorous approach to auditing and the scope of the audit has been broadened. The improved auditing requirements, combined with the introduction and expansion of the Board's proactive compliance program, has contributed to the detection and increase in the number of qualified audits.

## Key Output

The key 'output' or 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, licences settlement agents, takes action to ensure compliance with the Act, hears complaints and administers the Fidelity Guarantee Fund.

## Efficiency Indicator

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

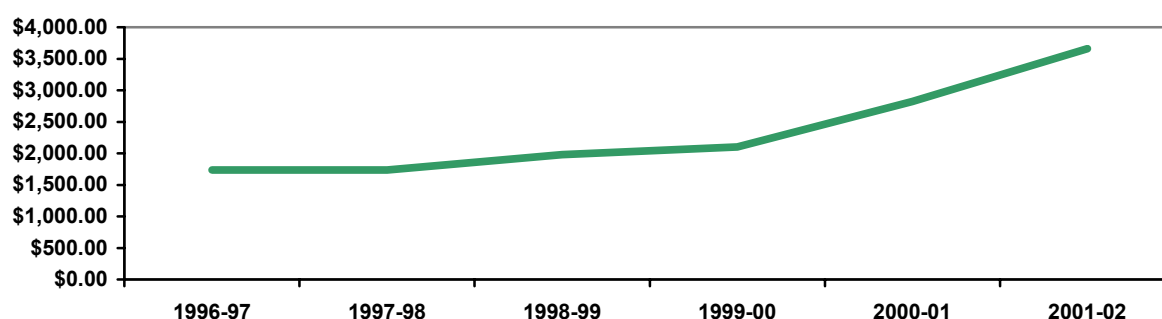
The Board provides a range of services/outputs aimed to ensure that settlement agents comply with the requirements of the Act. This indicator measures the efficiency with which the Board achieves this.

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

### Data

	1997-98	1998-99	1999-00	2000-01	2001-02
Annual Cost*	\$711 988	\$756 530	\$836 208	\$1 078 368	\$1 313 865
Active Licensed Agents	410	382	398	382	359
Cost per licensed agent	\$1736.56	\$1980.45	\$2101.03	\$2822.95	\$3659.79

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



\* Note: The annual cost of regulating the settlement industry has been calculated using the total annual expenditure of the Board less Fidelity Guarantee Fund payments made in that financial year. Fidelity Guarantee Fund 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.

### Notes to the indicator

The efficiency indicator is based on the cost of delivering the output per each active licensed settlement agent. In the 2001-02 financial year a total of \$1 313 865 was expended on regulating an industry with 359 active licensed agents (This figure excludes licensed agents who are in bona fide control of a licensed settlement business).

The average cost per agent of regulating the settlement industry, has increased steadily since July 1999, following the continued introduction of initiatives aimed at improving services and meeting the increasing demands and expectations of both consumers and the industry.

## Auditor General's Opinion on Performance Indicators



### AUDITOR GENERAL

To the Parliament of Western Australia

**SETTLEMENT AGENTS SUPERVISORY BOARD  
PERFORMANCE INDICATORS FOR THE YEAR ENDED JUNE 30, 2002**

**Matters Relating to the Electronic Presentation of the Audited Performance Indicators**

This audit opinion relates to the performance indicators of the Settlement Agents Supervisory Board for the year ended June 30, 2002 included on the Board's web site. The Board is responsible for the integrity of the Board's web site. I have not been engaged to report on the integrity of the Board's web site. The audit opinion refers only to the performance indicators named below. It does not provide an opinion on any other information which may have been hyperlinked to or from these performance indicators. If users of this opinion are concerned with the inherent risks arising from electronic data communications, they are advised to refer to the hard copy of the audited performance indicators to confirm the information included in the audited performance indicators presented on this web site.

**Scope**

I have audited the key effectiveness and efficiency performance indicators of the Settlement Agents Supervisory Board for the year ended June 30, 2002 under the provisions of the Financial Administration and Audit Act 1985.

The Board is responsible for developing and maintaining proper records and systems for preparing and presenting performance indicators. I have conducted an audit of the key performance indicators in order to express an opinion on them to the Parliament as required by the Act. No opinion is expressed on the output measures of quantity, quality, timeliness and cost.

My audit was performed in accordance with section 79 of the Act to form an opinion based on a reasonable level of assurance. The audit procedures included examining, on a test basis, evidence supporting the amounts and other disclosures in the performance indicators, and assessing the relevance and appropriateness of the performance indicators in assisting users to assess the Board's performance. These procedures have been undertaken to form an opinion as to whether, in all material respects, the performance indicators are relevant and appropriate having regard to their purpose and fairly represent the indicated performance.

The audit opinion expressed below has been formed on the above basis.

**Audit Opinion**

In my opinion, the key effectiveness and efficiency performance indicators of the Settlement Agents Supervisory Board are relevant and appropriate for assisting users to assess the Board's performance and fairly represent the indicated performance for the year ended June 30, 2002.

K O O'NEIL  
ACTING AUDITOR GENERAL  
November 22, 2002

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

## SECTION 4 Financial Statements

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## Certification of Financial Statements

The accompanying financial statements of the Settlement Agents Supervisory Board have been prepared in compliance with the provisions of the *Financial Administration and Audit Act 1985* from proper accounts and records and to present fairly the financial transactions for the year ending 30 June 2002 and the financial position as at 30 June 2002.

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



**Stuart Cowie**  
Principal Accounting Officer



**David Taylor**  
Chairman



**Valerie Haskins**  
Member

19<sup>th</sup> November 2002



# Auditor General's Opinion on Financial Statements



## AUDITOR GENERAL

To the Parliament of Western Australia

### SETTLEMENT AGENTS SUPERVISORY BOARD FINANCIAL STATEMENTS FOR THE YEAR ENDED JUNE 30, 2002

#### Matters Relating to the Electronic Presentation of the Audited Financial Statements

This audit opinion relates to the financial statements of the Settlement Agents Supervisory Board for the year ended June 30, 2002 included on the Board's web site. The Board is responsible for the integrity of the web site. I have not been engaged to report on the integrity of the Board's web site. The audit opinion refers only to the statements named below. It does not provide an opinion on any other information which may have been hyperlinked to or from these statements. If users of this opinion are concerned with the inherent risks arising from electronic data communications, they are advised to refer to the hard copy of the audited financial statements to confirm the information included in the audited financial statements presented on this web site.

#### Scope

I have audited the accounts and financial statements of the Settlement Agents Supervisory Board for the year ended June 30, 2002 under the provisions of the Financial Administration and Audit Act 1985.

The Board is responsible for keeping proper accounts and maintaining adequate systems of internal control, preparing and presenting the financial statements, and complying with the Act and other relevant written law. The primary responsibility for the detection, investigation and prevention of irregularities rests with the Board.

My audit was performed in accordance with section 79 of the Act to form an opinion based on a reasonable level of assurance. The audit procedures included examining, on a test basis, the controls exercised by the Board to ensure financial regularity in accordance with legislative provisions, evidence to provide reasonable assurance that the amounts and other disclosures in the financial statements are free of material misstatement and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions so as to present a view which is consistent with my understanding of the Board's financial position, its financial performance and its cash flows.

The audit opinion expressed below has been formed on the above basis.

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

**Settlement Agents Supervisory Board**  
**Financial statements for the year ended June 30, 2002**

**Audit Opinion**

In my opinion,

- (i) the controls exercised by the Settlement Agents Supervisory Board provide reasonable assurance that the receipt, expenditure and investment of moneys and the acquisition and disposal of property and the incurring of liabilities have been in accordance with legislative provisions; and
- (ii) the Statement of Financial Performance, Statement of Financial Position and Statement of Cash Flows and the Notes to and forming part of the financial statements are based on proper accounts and present fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions, the financial position of the Board at June 30, 2002 and its financial performance and its cash flows for the year then ended.



K O O'NEIL  
ACTING AUDITOR GENERAL  
November 22, 2002

## SETTLEMENT AGENTS SUPERVISORY BOARD

Statement of Financial Performance for the year ended 30 June 2002

REVENUE	Note	2001/02 \$	2000/01 \$
<b>Revenue from Ordinary Activities</b>			
<i>Revenue from operating activities</i>			
Agents trust account interest income		2,110,046	1,621,800
Licence income	3	71,126	64,573
Contributions to the Fidelity Guarantee Fund		26,100	41,300
Fines and costs		8,050	1,748
Other revenues from ordinary activities	4	127	49
Profit on disposal of assets	5	0	706
<i>Revenue from non operating activities</i>			
Bank and investment interest	2	555,871	641,698
<b>Total Revenues from Ordinary Activities</b>		<b>2,771,320</b>	<b>2,371,874</b>
<b>EXPENSES</b>			
<b>Expenses from Ordinary Activities</b>			
Employee expenses	6	227,889	114,722
Communications costs		957	1,518
Legal fees		45,954	3,865
Board fees		15,828	15,714
Services and contracts	7	92,062	47,212
Consumables and maintenance	8	4,117	7,161
Depreciation	9	33,968	8,522
Service Delivery Agreement	10	870,310	845,213
<b>Total Expenses from Ordinary Activities Before Grants</b>		<b>1,291,085</b>	<b>1,043,927</b>
Grants			
Education Grants	11	22,780	34,441
Fidelity guarantee payments		0	0
<b>Total Expenses from Ordinary Activities</b>		<b>1,313,865</b>	<b>1,078,368</b>
<b>NET PROFIT</b>		<b>1,457,455</b>	<b>1,293,506</b>

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

## SETTLEMENT AGENTS SUPERVISORY BOARD

### Statement of Financial Position as at 30 June 2002

<b>CURRENT ASSETS</b>	<b>Note</b>	<b>2001/02</b>	<b>2000/01</b>
		<b>\$</b>	<b>\$</b>
Cash assets	14	3,879,274	3,015,452
Restricted cash assets	14	8,931,028	8,304,170
Accrued agents trust account interest income		245,593	126,900
Accrued investment interest		47,554	51,153
Receivables	15	3,709	19,883
<b>Total Current Assets</b>		<b>13,107,158</b>	<b>11,517,558</b>
<b>NON-CURRENT ASSETS</b>			
Computers and Equipment	20	14,014	23,611
REMIS Software	20	94,129	118,500
<b>Total Non-Current Assets</b>		<b>108,143</b>	<b>142,111</b>
<b>TOTAL ASSETS</b>		<b>13,215,301</b>	<b>11,659,669</b>
<b>CURRENT LIABILITIES</b>			
Payables	16	194,702	94,046
Provision for fidelity guarantee claims	12	14,882	15,057
Other liabilities (Revenue received in advance)	3	57,264	61,190
Provision for employee entitlements	21	30,468	19,863
<b>Total Current Liabilities</b>		<b>297,316</b>	<b>190,156</b>
<b>NON CURRENT LIABILITIES</b>			
Other liabilities (Revenue received in advance)	3	38,414	49,676
Provision for employee entitlements	21	20,171	17,893
<b>Total Non Current Liabilities</b>		<b>58,585</b>	<b>67,569</b>
<b>TOTAL LIABILITIES</b>		<b>355,901</b>	<b>257,724</b>
<b>NET ASSETS</b>		<b>12,859,400</b>	<b>11,401,945</b>
<b>EQUITY</b>			
Retained profits	23	12,859,400	11,401,945
<b>TOTAL EQUITY</b>		<b>12,859,400</b>	<b>11,401,945</b>

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

## SETTLEMENT AGENTS SUPERVISORY BOARD

### Statement of Cash Flows for the year ended 30 June 2002

<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>	<b>Note</b>	<b>2001/02</b>	<b>2000/01</b>
		<b>\$</b>	<b>\$</b>
<b>Receipts</b>			
Interest received		2,550,823	2,133,893
Receipt from clients		67,259	65,053
Contributions paid into the Fidelity Guarantee Fund		26,100	41,300
GST receipts from ATO		13,031	18,472
<b>Payments</b>			
Payments to suppliers of goods and services		(1,130,428)	(963,967)
Payments for education programs		(22,780)	(34,441)
GST payments on purchases		(13,326)	(21,691)
<b>Net Cash Provided by Operating Activities</b>	<b>19</b>	<b>1,490,679</b>	<b>1,238,619</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Payments for non current assets		0	(143,341)
Proceeds from asset sales		0	706
<b>Net Cash Used in Investing Activities</b>		<b>0</b>	<b>(142,635)</b>
<b>Net Increase in Cash Held</b>		<b>1,490,679</b>	<b>1,095,984</b>
<b>Cash assets at the beginning of the financial year</b>		<b>11,319,623</b>	<b>10,223,639</b>
<b>Cash assets at the end of the financial year</b>	<b>14</b>	<b>12,810,302</b>	<b>11,319,623</b>

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

# SETTLEMENT AGENTS SUPERVISORY BOARD

## Notes to the Financial Statements for the year ended 30 June 2002

### 1. Significant Accounting Policies

The following accounting policies have been adopted in the preparation of the financial statements. Unless otherwise stated, these policies are consistent with those adopted in the preceding year.

#### (a) General statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with Australian Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and Urgent Issues Group (UIG) Consensus Views as applied by the Treasurer's Instructions. Several of these are modified by the Treasurer's Instructions to vary the application, disclosure, format and wording. The Financial Administration and Audit Act and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over Australian Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and UIG Consensus Views. The modifications are intended to fulfil the requirements of general application to the public sector, together with the need for greater disclosure and also to satisfy accountability requirements.

If any such modification has a material or significant financial effect upon the reported results, details of that modification and where practicable, the resulting financial effect is disclosed in individual notes to these financial statements.

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

#### (b) Revenue Recognition

Revenue from the sale of goods and disposal of other assets and the rendering of services is recognised when control of the goods or other assets or delivery of the services has passed to the customer.

#### (c) Acquisition of assets

The cost method of accounting is used for all acquisitions of assets. Cost is measured as the fair value of the assets given up or liabilities undertaken at the date of acquisition plus incidental costs directly attributable to the acquisition.

#### (d) Depreciation of non-current assets

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

Depreciation is calculated on the straight-line basis, using rates, which are reviewed annually. Useful lives for each class of depreciable asset are:

Computers & Equipment	3 years
REMIS Software	5 years

All assets are stated at cost.

## SETTLEMENT AGENTS SUPERVISORY BOARD

### Notes to the Financial Statements for the year ended 30 June 2002

**(e) Cash**

For the purpose of the Statement of Cash Flows, cash included cash assets and restricted cash assets. These include short term deposits that are readily convertible to cash on hand and are subject to insignificant risk of changes in value.

**(e) Software**

Significant costs associated with the acquisition or development of computer software are capitalised and amortised on a straight line basis over the periods of the expected benefit. In the case of REMIS five years.

**(f) Employee entitlements**

**Annual leave**

This entitlement is recognised at current remuneration rates and is measured at the amount unpaid at the reporting date in respect to employee's services up to that date.

**Long service leave**

Leave entitlements are calculated at current remuneration rates. A Liability for long service leave is recognised after an officer has completed four years of service. Leave entitlements for staff services procured from the Dept of Consumer & Employment Protection by the Board under a service delivery agreement are carried in the Department's accounts.

This method of measurement of the liability is consistent with the requirements of Australian Accounting Standard AAS30, "Accounting for Employee Entitlements".

**Superannuation**

Staff may contribute to the Pension Scheme, a defined benefits pension scheme now closed to new members, or to the Gold State Superannuation Scheme, a defined benefit lump sum scheme now also closed to new members. All staff who do not contribute to either of these schemes become non-contributory members of the West State Superannuation Scheme, an accumulation fund complying with the Commonwealth Government's Superannuation Guarantee (Administration) Act 1992. All of these schemes are administered by the Government Employees Superannuation Board (GESB).

The liabilities for superannuation charges under the Gold State Superannuation Scheme and West State Superannuation Scheme are extinguished by payment of employer contributions to the GESB.

The note disclosure required by paragraph 51(e) of AAS 30 (being the employer's share of the difference between employees' accrued superannuation benefits and the attributable net market value of plan assets) has not been provided. State scheme deficiencies are recognised by the State in its whole of government reporting. The GESB's records are not structured to provide the information for the Board. Accordingly, deriving the information for the Board is impractical under current arrangements, and thus any benefits thereof would be exceeded by the cost of obtaining the information.



# SETTLEMENT AGENTS SUPERVISORY BOARD

## Notes to the Financial Statements for the year ended 30 June 2002

### Accrued Salaries

Accrued salaries represent the amount due to staff but unpaid at the end of the financial year, as the end of the last pay period for that financial year does not coincide with the end of the financial year. The Board considers the carrying amount approximates net fair value.

### (g) Revenue

Proceeds from triennial licensing fees are allocated over 36 months from the month of receipt. The portion of licensing fees which are related to the current year are recognised as income. The remainder of the proceeds is recognised as Revenue received in advance.

Contributions from agents to the Fidelity Guarantee Fund are recognised as revenue in the year of receipt. These are levied by the Board if it is of the opinion funds are not sufficient to cover pecuniary loss of property by reason of any defalcation by a licensee.

Proceeds from other sources are recognised as revenue when received. Other revenue is fully described in the Statement of Financial Performance.

Interest revenues are recognised as they are accrued.

### (h) Receivables

Receivables are recognised at the amounts receivable, as they are due for settlement no more than 30 days from the date of recognition.

### (i) Accounts payable and accrued expenses

Payables including accruals not yet billed are recognised when the Board becomes obliged to make future payments as the result of a purchase of assets or services. Payables are generally settled within 30 days.

### (j) Net fair value of financial assets and liabilities

The carrying amount of financial assets and financial liabilities recorded in the financial statements are not materially different from their net fair values, determined in accordance with the accounting policies disclosed in these notes.

### (k) Comparative figures

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

## 2. Bank and investment interest

The interest income of the Board is comprised of:

	2001/02	2000/01
	\$	\$
Interest from Treasury	548,530	635,044
Interest on call accounts	7,341	6,654
<b>Total interest income</b>	<b>555,871</b>	<b>641,698</b>

## SETTLEMENT AGENTS SUPERVISORY BOARD

### Notes to the Financial Statements for the year ended 30 June 2002

#### 3. Licence income

Proceeds from triennial licensing fees are allocated over 36 months from the month of receipt. Proceeds relating to the current financial year are recognised as revenue. The balance of the proceeds is credited into the Revenue received in advance account. The analysis of the proceeds is as follows:

	<b>2001/02</b>	<b>2000/01</b>
	<b>\$</b>	<b>\$</b>
Revenue received in advance account ( current)	61,190	54,392
Revenue received in advance account (non current)	49,676	31,258
Cash received during the year	59,116	94,756
<b>Total receipts received in advance</b>	<b>169,982</b>	<b>180,406</b>
Refunds	3,178	4,967
Income recognised during the year	71,126	64,573
	<b>74,304</b>	<b>69,540</b>
<b>Revenue received in advance</b>	<b>95,678</b>	<b>110,866</b>
<b>Held in</b>		
Revenue received in advance account ( current)	57,264	61,190
Revenue received in advance account (non current)	38,414	49,676
<b>Total</b>	<b>95,678</b>	<b>110,866</b>

#### 4. Other revenues from ordinary activities

Other income consists of:

	<b>2001/02</b>	<b>2000/01</b>
	<b>\$</b>	<b>\$</b>
Other income	117	49
Search Fees	10	0
<b>Total</b>	<b>127</b>	<b>49</b>

#### 5. Profit on disposal of non current asset

	<b>2001/02</b>	<b>2000/01</b>
	<b>\$</b>	<b>\$</b>
Computers	0	706
Proceeds on disposal	0	706

## SETTLEMENT AGENTS SUPERVISORY BOARD

### Notes to the Financial Statements for the year ended 30 June 2002

#### 6. Employee expenses

The Board procures services from the Dept of Consumer & Employment Protection under a service delivery agreement. The current arrangements, which started in the 1999/2000 financial year, is for an all inclusive fixed fee. The salary figure below represents only the salary of employees directly employed by the Board.

	<b>2001/02</b>	<b>2000/01</b>
	<b>\$</b>	<b>\$</b>
Salary	173,032	78,217
Change in annual leave	1,989	(1,904)
Change in long service leave	10,894	15,350
On costs	7,544	8,659
<b>Total staff salary costs</b>	<b>193,459</b>	<b>100,322</b>
Staff related expenses	34,430	14,400
<b>Total staff costs</b>	<b>227,889</b>	<b>114,722</b>

#### 7. Services and contracts

Services contracts consists of:

	<b>2001/02</b>	<b>2000/01</b>
	<b>\$</b>	<b>\$</b>
Audit fees	8,500	7,300
Bank charges	490	863
Consultants and contractors fees	4,702	4,873
Insurance	6,700	3,995
Professional services	6,250	3,416
Advertising	5,694	5,782
Printing	7,565	19,390
Miscellaneous	800	0
Website subscription	946	0
REMIS maintenance	50,415	1,593
<b>Total</b>	<b>92,062</b>	<b>47,212</b>

#### 8. Consumables and maintenance

	<b>2001/02</b>	<b>2000/01</b>
	<b>\$</b>	<b>\$</b>
Stationery	2,513	2,874
Sundry consumables	1,604	1,253
Sundry assets costing under \$1000	0	2,944
Repair and maintenance	0	90
<b>Total</b>	<b>4,117</b>	<b>7,161</b>

## SETTLEMENT AGENTS SUPERVISORY BOARD

### Notes to the Financial Statements for the year ended 30 June 2002

#### 9. Depreciation

Depreciation charges for the year consist of:

	2001/02	2000/01
	\$	\$
Computers and equipment	9,597	5,184
REMIS Software	24,371	3,338
<b>Total</b>	<b>33,968</b>	<b>8,522</b>

#### 10. Service Delivery Agreement

The Board procures services from the Department of Consumer and Employment Protection under a service delivery agreement.

The current agreement is for a fixed fee, which is reviewed annually.

#### 11. Educational grants

The Board made educational grants amounting to **\$22,780** during the year (\$34,441 for 2000/01). Grants were made to the following for the provision of training courses:

	2001/02	2000/01
	\$	\$
Australian Institute of Conveyancers	0	28,137
Miscellaneous	22,780	6,304
<b>Total</b>	<b>22,780</b>	<b>34,441</b>

#### 12. Provisions for fidelity guarantee claims.

The position of the provision for fidelity guarantee account at the financial year end date is as follows:

	2001/02	2000/01
	\$	\$
Opening balance	15,057	15,057
Payment from provision account	175	0
Closing balance	<b>14,882</b>	<b>15,057</b>

The closing balance of the provision for fidelity claims is a residual balance of provisions left over from previous years. It is not an admission of liability. Consequently, no new provisions were transferred into the provision account as this account should be allowed to run down. As at 30 June 2002 the Principal Financial Compliance Officer has not deemed any outstanding claims can be reliably assessed. Outstanding claims against the Fidelity Guarantee Fund are disclosed as contingent liabilities.

## SETTLEMENT AGENTS SUPERVISORY BOARD

### Notes to the Financial Statements for the year ended 30 June 2002

#### 13. Contingent liabilities

The Board is aware of 7 claims (7 as at 30/6/2001) against the Fidelity Guarantee Fund totalling \$2.4m (\$2.35m as at 30/6/01) for which no liability has been admitted by the Board. No other form of contingent liability exists at the date of this report.

#### 14. Cash assets

**Cash resources held in the Fidelity Guarantee Fund are deemed to be restricted as the application of these resources are governed by the provisions of the Settlement Agents Act 1981.**

As at balance sheet date the cash balances in the various bank accounts administered by the Board are as follows:

	2001/02	2000/01
	\$	\$
Education and General Purpose Fund	38,774	74,952
Fidelity Guarantee Fund (Restricted)	41,028	14,170
Board Interest Account	500	500
<b>Total cash at bank</b>	<b>80,302</b>	<b>89,622</b>

#### Cash held at Treasury

Education and General Purpose Fund	3,840,000	2,940,000
Fidelity Guarantee Fund (Restricted)	8,890,000	8,290,000
<b>Total cash held in term deposit</b>	<b>12,730,000</b>	<b>11,230,000</b>

<b>Total Cash</b>	<b>12,810,302</b>	<b>11,319,622</b>
-------------------	-------------------	-------------------

Cash Assets	3,879,274	3,015,452
Restricted Cash Assets	8,931,028	8,304,170
<b>Total Cash</b>	<b>12,810,302</b>	<b>11,319,622</b>

In the 2000/01 financial year \$126,900 was incorrectly reported as cash assets rather than receivables. This error has been adjusted in the comparative figure in these financial statements.

#### 15. Receivables

Accounts receivable represents monies due from:

	2001/02	2000/01
	\$	\$
Staff leave entitlements receivable from the <b>Dept of 0</b>		16,469
<b>Consumer &amp; Employment Protection</b> under T.I. 520		
GST Recoverable	3,709	3,414
<b>Total</b>	<b>3,709</b>	<b>19,883</b>

## SETTLEMENT AGENTS SUPERVISORY BOARD

### Notes to the Financial Statements for the year ended 30 June 2002

#### 16. Payables

	2001/02	2000/01
	\$	\$
Service delivery agreement with the Dept of Consumer & Employment Protection	72,526	70,435
Audit fees	8,500	7,500
Reimbursement to Dept of Consumer & Employment Protection	16,817	13,208
Salaries	3,618	2,903
Miscellaneous creditors	43,637	0
Overpaid trust account interest	49,604	
<b>Total</b>	<b>194,702</b>	<b>94,046</b>

#### 17. Remuneration and Retirement Benefits of Board Members and Senior Officers

##### Remuneration of Board Members

The number of members of the Board whose total of fees, salaries, superannuation and other benefits received or due and receivable for the financial year, falls within the following bands:

	2001/02	2000/01
\$0 - \$10,000	8	7
Total remuneration (\$)	17,094	16,353

##### Remuneration of Senior Officers

The number of senior officers whose total of fees, salaries, superannuation and other benefits received or due and receivable for the financial year, falls within the following bands:

	2001/02	2000/01
\$20,001 - \$30,000	0	1
\$30,001 - \$40,000	1	0
Total remuneration (\$)	30,078	26,631

The Board procures services from the Dept of Consumer & Employment Protection. The number of senior officers providing these services are included in the annual report of the Department.

#### 18. Remuneration of Auditor

The amount payable to the Office of the Auditor General of Western Australia for auditing the accounts for the financial year is \$8,500 (\$7,500 for 2000/01).

Apart from the audit the Board did not procure other services from the Office of the Auditor General of Western Australia.

## SETTLEMENT AGENTS SUPERVISORY BOARD

### Notes to the Financial Statements for the year ended 30 June 2002

#### 19. Reconciliation of net cash provided from operating activities to surplus reported in the Statement of Financial Performance

	2001/02	2000/01
	\$	\$
Net Profit as per Statement of Finance Performance	1,457,455	1,293,506
Movement in		
<b>Non-cash items</b>		
Depreciation	33,968	8,522
Profit on sale of assets	0	(706)
<b>(Increase)/decrease in assets</b>		
Accrued interest	(115,094)	(129,605)
Accrued receivables	16,174	(8,061)
<b>Increase/(decrease) in liabilities</b>		
Payables	100,656	19,831
Fidelity claims	(175)	0
Employee entitlements	12,883	29,916
Revenue received in advance, current liabilities	(3,926)	6,798
Revenue received in advance, non current liabilities	(11,262)	18,418
<b>Net cash from operating activities</b>	<b>1,490,679</b>	<b>1,238,619</b>

#### 20. Property Plant & Equipment

	2001/02	2000/01
	\$	\$
Computers and Equipment at Cost	34,105	34,105
Accumulated Depreciation	(20,091)	(10,494)
	14,014	23,611
REMIS Software at Cost	121,838	121,838
Accumulated Depreciation	(27,709)	(3,338)
	94,129	118,500
<b>Total Property, Plant &amp; Equipment</b>	<b>108,143</b>	<b>142,111</b>

#### Reconciliations

Reconciliations of the carrying amount of property, plant and equipment at the beginning and end of the current and previous financial year are set out below.

	2001/02
	\$
<b>Computers and Equipment</b>	
Carrying amount at start of year	23,611
Additions	0
Disposals	0
Accumulated depreciation on disposals	0
Depreciation expense	(9,597)
Carrying amount at end of year	<b>14,014</b>



## SETTLEMENT AGENTS SUPERVISORY BOARD

### Notes to the Financial Statements for the year ended 30 June 2002

#### 20. cont.

##### REMIS Software

Carrying amount at start of year	118,500
Additions	0
Disposals	0
Accumulated depreciation on disposals	0
Depreciation expense	(24,371)
Carrying amount at end of year	<b>94,129</b>

<b>Total Property, Plant &amp; Equipment</b>	<b>108,143</b>
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#### 21. Provision for Employee Entitlements

	<b>2001/02</b>	<b>2000/01</b>
	<b>\$</b>	<b>\$</b>
<b>Current Liabilities</b>		
Annual Leave	5,701	3,712
Long Service Leave	24,767	16,151
	30,468	19,863
<b>Non Current Liabilities</b>		
Long Service Leave	20,171	17,893

The Board considers the carrying amount of employee entitlements approximate the net fair value.

#### 22. Activity/Output Information

The 'output' or service provided by the Board is '**Regulation**' or '**regulatory services**'.

As there is only one output for the Board there is no separate reporting under outputs as required by Treasury Instruction 904 or reporting under industry segments for the purpose of AAS16.

#### 23. Retained Profits

	<b>2001/02</b>	<b>2000/01</b>
	<b>\$</b>	<b>\$</b>
Opening balance	11,401,945	10,108,439
Unappropriated surplus	1,457,455	1,293,506
<b>Total Equity</b>	<b>12,859,400</b>	<b>11,401,945</b>

## SETTLEMENT AGENTS SUPERVISORY BOARD

### Notes to the Financial Statements for the year ended 30 June 2002

#### 24. Financial Instruments

##### (a) Interest Rate Risk Exposure

The Board exposure to interest rate risk and effective interest rates on financial instruments are:

	Weighted average effective rate		Floating interest		Fixed interest 1 year or less		Non interest bearing		Total as per the Statement of Financial Position	
	2001/02	2000/01	2001/02	2000/01	2001/02	2000/01	2001/02	2000/01	2001/02	2000/01
Financial Assets			\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Cash assets	4.53%	5.52%	80	90	12,730	11,230			12,810	11,320
Accrued interest	0.00%	0.00%					275	178	275	178
Receivables	0.00%	0.00%					4	20	4	20
GST Recoverable	0.00%	0.00%							0	0
Total financial assets			80	90	12,730	11,230	279	198	13,089	11,518
Financial Liabilities										
Payables	0.00%	0.00%					195	94	195	94
Employee entitlements	0.00%	0.00%					51	38	51	38
Revenue received in advance	0.00%	0.00%					96	111	96	111
Total financial liabilities			0	0	0	0	342	243	342	243
Net financial assets			80	90	12,730	11,230	(63)	(45)	12,747	11,275

##### (b) Credit Risk Exposure

All financial assets are unsecured. Financial assets comprise of money held in Commonwealth Bank cash accounts, investments placed with Treasury and monies owed to the Board by the Dept. of Consumer & Employment Protection.

##### (c) Net Fair Value

The carrying amount of financial assets and financial liabilities recorded in the financial statements are not materially different from their net fair values, determined in accordance with the accounting policies disclosed in note1 to the financial statements.

## SETTLEMENT AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

### 25. Explanatory Statement

	2000/2001 Actual \$	2001/2002 Budget \$	2001/2002 Actual \$	Variation 01/02 to 00/01 \$	Variation 01/02 to budget \$
<b>Revenues</b>					
<b>Revenue from operating activities</b>					
Agents trust account interest income	1,621,800	1,620,400	2,110,046	488,246	489,646
Bank and investment interest	641,698	597,940	555,871	(85,827)	(42,069)
<b>Expenses</b>					
Employee expenses	114,722	186,900	227,889	113,168	40,989
<b>Grants</b>					
Fidelity claims	0	100,000	0	0	(100,000)

#### a) Comparison of actual results with those of the preceding year

Reasons for significant variations between results for the current year and the corresponding item of the preceding year are detailed below.

Significant variations are considered to be those greater than 10% and \$50,000.

##### Agents trust account interest income

A much higher level of activity and higher prices in the industry than the preceding year resulted in a higher level of trust account interest being received compared with the previous year.

##### Bank and investment interest

Interest rates during the year were considerably lower than the previous years resulting in lower levels of investment interest being received.

##### Employee expenses

Staffing levels were higher than the previous year resulting in higher employee expenses.

#### b) Comparison of estimates to actual results

Section 42 of the Financial Administration and Audit Act requires statutory authorities to prepare annual budget estimates.

Reasons for significant variations between these estimates and actual results for the year are detailed below.

Significant variations are considered to be those greater than 10% and \$50,000.

##### Agents trust account interest income

A much higher level of activity and higher prices in the industry than was anticipated resulted in higher level of trust account interest being received compared with the estimated amount.

##### Fidelity Claims

Although an estimate was made and included in the budget the Board does not admit liability until determinations are finalised. For 2001/2002 no claims against the Fidelity Fund were paid out.

# Appendix

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## Prosecutions, Inquiries and Appeals

Listed below is a record of Prosecutions, Disciplinary Inquiries and Appeal decisions for the period 1 July 2001 to 30 June 2002.

Defendant	Charges	Outcome	Fine	Costs
Carrigan Pty Ltd t/as Queen Street Settlement Services	Articles 7,11 and 16	Formal Warning Licence surrendered		
Tenant Settlements Pty Ltd	Article 16	Reprimand		\$250
Central Conveyancing Pty Ltd	Articles 5,7,11,15 and 16	Reprimand		\$250
Tarmoz Pty Ltd t/as Centrewest Settlements	Sections 49(6)(d) 5 counts 49(6)(a) 4 counts 49(6)(c) 2 counts 49(4) 8 counts 49C(3) 3 counts 49(1) 5 counts	Licence and triennial certificate cancelled		\$250
1. Eddesa Pty Ltd t/as Eddesa Settlements 2. Catherine Mary Hutchison	Articles 4,15,16	Reprimand	\$500	\$250
Tenant Settlements Pty Ltd	Articles 5,7,11 and Article15	Guilty  Reprimand	\$1 000	\$700
Peter David Wearne t/as Peter Wearne Settlements	Sections 49(a),49(6a),49(6d),49(3),4 9(4) and 51(1) Articles 23 and 24		\$4 000	\$1 600