

# **Property Agents Board**

## **2017-2018**

# **Annual Report**



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We are located at  
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15 Victoria Street  
Hobart Tasmania

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22 October 2018

Hon G Barnett MP  
Minister for Building and Construction  
Level 5  
4 Salamanca Place  
Hobart Tas 7000

Dear Minister

**Property Agents Board - Annual Report - 2017-2018**

We submit for your information and presentation to Parliament the Annual Report of the Property Agents Board for the financial year ended 30 June 2018, in accordance with Section 14 of the *Property Agents and Land Transactions Act 2016*.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Ann Cunningham".

Ann Cunningham  
Chair  
Property Agents Board

A handwritten signature in blue ink, appearing to read "Alicia Hutton".

Alicia Hutton  
Executive Officer  
Property Agents Board

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# Report of the Chair

It is with great pleasure that I again present, in my capacity as Chair, the Board's Annual Report for the year ending 30 June 2018.

It has been a year of achievements for the Board having successfully consolidated the transition of a new legislative regime for the industry.

## *Membership of the Board*

With myself and Mr Andrew Wright only having just joined the Board in February 2017 the Board experienced a further change to its membership with the appointment on 7 August 2017 of Ms Liz Rodd for a three-year term.

Ms Rodd replaced Ms Kim Backhouse who had served on the Board for six years. On behalf of the Board and its officers I extend our sincere gratitude to Ms Backhouse for her service.

Ms Belinda Webster was reappointed on 7 August as the other non-property agent member for a two-year term.

## *Workload of the Board*

The Board sustains a considerable workload. A total of 10 formal Board meetings were convened during the reporting period, with another 3 matters resolved by resolution via email between Board meetings.

The Board combines discussion and review of all its statutory duties into one monthly meeting to reduce time and cost.

The Board has been required to develop new policies to implement new statutory requirements such as the enhanced fit and proper person probity test and the introduction of infringements to the industry.

The Board also undertook a full review of the Code of Conduct adding additional clauses to enhance the professionalism within the Property Agents industry. Version 3 of the Code of Conduct commenced on 1 July 2018.

As with most new legislation, certain deficiencies have been identified during its implementation. The Board has periodically notified the Minister of recommended amendments.

A particular issue of concern to the Board is the effect of s150(2)(a) of the *Property Agents and Land Transactions Act 2016* which provides that surplus money may be used to meet the costs incurred in administering the *Residential Tenancy Act 1997*.

This provision was transferred from the former 2005 Act when property agents held residential bonds in trust. It was understood that upon the implementation of the Rental Deposit Authority (RDA) in 2010 all residential bonds would be transferred to and kept by the RDA and interest would be credited to that authority such that it would ultimately be self-funding. The Board has written to the Minister regarding its concern that the surplus funds in the Guarantee Fund are being depleted and that in time there will be insufficient money available for education, research and other functions for the betterment of the property industry.

#### *Direction of the Board*

The next 12 months will see a period of stability for the Board's membership. This will allow for further rollout of information and provide support to the property industry.

To the members of the Board, I thank you for your contribution to the work of the Board throughout the reporting period.

On behalf of the Board, I gratefully acknowledge the hard and enthusiastic work of the Executive Officer, Alicia Hutton and all the employees of the Board, whose professionalism and dedication are fundamental to its ongoing success.



Ann Cunningham  
Chair  
Property Agents Board

# Report of the Executive Officer

2017-2018 has been an extremely inspiring year with new Board membership, a new key position of the Office and Operations Manager and the Board office move in December from Level 2 down to Level 1, 15 Victoria Street, Hobart.

The introduction of the *Property Agents and Land Transactions Act 2016* ("the Act") in April 2017 created many administrative challenges for the Board's office staff. New areas of regulation and concepts under the Act has increased the workload with additional processes required to be bedded down. Existing procedures were also reviewed and where appropriate, streamlined in order to increase administrative efficiency. I am very appreciative of my staff's flexibility and dedication in consolidating the Act in such a seamless way for the property industry.

## *Complaints and Investigations*

Complaint handling and undertaking investigations remains one of the core activities of the Board. A total of 67 complaints were received during the reporting period.

The Board is required to provide to the complainant and the property agent a written determination and reasons following a decision to finalise a complaint. The Board produced 46 written complaint determinations and reasons during the reporting period.

Further commentary in relation to the complaints and investigations statistical information is provided in further depth in the annual report.

## *Licensing*

The workload for licensing has increased dramatically with the introduction of the property representative class of licence.

A total of 2,081 licences were granted during 2017-2018. The categories are 611 Real Estate Agent licences, 25 Property Manager licences, 41 General Auctioneer licences and 1,394 Property Representative licences were granted during the period.

In addition to assessments, grants and renewals of licenses, the Board is required to maintain the Board's Registers which is amended when a licensee changes employer or personal details.

## *Examinations*

311 Examinations were conducted during the reporting period. 275 candidates undertook the property representative examination. Seven sat the General Auctioneer examination and 28 attempted an enabling examination.



### *Trust Account and Statutory records*

Thirty-one Property Agents had an inspection of their Trust Accounts and Statutory Records by the Board's Inspector during the reporting period.

### *Stakeholder and Counterpart engagement*

I have been fortunate to have been invited to join the national working group to review the National Training Package for property industry qualifications. This advisory group included representatives from employers, employees, industry RTOs and only two Regulators.

During the reporting period I was also invited to join the National Real Estate Regulator group. This group discusses real estate transactions and property agent conduct in each jurisdiction. Sharing information, such as emerging industry-wide or State-based issues, significant disciplinary action and changes in legislative regimes provides enhanced understanding of movement and focuses of our industry.

I have also been fortunate to engage with the industry by speaking at a number of different forums, mostly relating to the recent legislative changes and confirming the Board's position on matters of policy.



Alicia Hutton  
Executive Officer  
Property Agents Board



# The Property Agents Board





## Our Functions

The Board acts as the supervisory authority for property agents in Tasmania. The stated object of *Property Agents and Land Transactions Act 2016* ("the Act") is to regulate property agents and certain auction and real estate practices. "Property agent" is defined by the Act to mean a real estate agent, a property manager, a general auctioneer and a property representative.

The duties of the Board are set out in Section 6 of the Act and include:

- a) *to administer the licensing system for property agents established by this Act;*
- b) *to maintain the Register;*
- c) *to ensure that property agents comply with the requirements of this Act relating to their conduct in carrying on their businesses or in performing their functions and, where they fail to do so, to take appropriate action, including disciplinary action, to protect the public and to discourage such conduct;*
- d) *to ensure that people do not act as property agents unless they are permitted to do so under this Act;*
- e) *to develop and ensure compliance with a Code of Conduct for property agents;*
- f) *to receive, investigate and determine complaints against property agents;*
- g) *to provide support in the resolution of disputes relating to the conduct of property agents;*
- h) *to supervise the trust accounts of property agents;*
- i) *to advise property agents on appropriate standards of conduct;*
- j) *to monitor, identify and report to the Minister trends and issues that emerge within the property agents industry;*
- k) *to perform educational functions for the purposes of this Act;*
- l) *to advise the Minister on matters relating to this Act including its efficacy and on any other matters relevant to the Board's functions or to the property agents industry;*
- m) *to perform any other function imposed on the Board by this or any other Act;*
- n) *such other functions as may be prescribed.*

The Board may:

- give advice to the Minister with regard to the regulation of the real estate industry;
- make recommendations regarding rules and regulations etc. relating to -
  - the handling of trust money;
  - courses of instruction and examinations; and
  - the professional conduct of property agents;
- refer alleged serious breaches of the Act, Regulations or Code of Conduct to the Property Agents Tribunal;
- issue or refuse an application for a licence for real estate agents, property managers, general auctioneers and property representatives;
- cause to be inspected and audited the trust accounts of general auctioneers, property managers and real estate agents; and
- establish, administer and process claims against the Property Agents Guarantee Fund; and
- carry out the educational functions set out in Section 6(3); and
- establish and keep under review a Code of Conduct for property agents under Section 84.

## Our Board

The Property Agents Board is an independent statutory authority continued in existence under the *Property Agents and Land Transactions Act 2016* ("the Act") to regulate the real estate industry. The Board administers the Act, the *Property Agents and Land Transactions Regulations 2017* ("the Regulations") and the Code of Conduct developed in accordance with Section 84 of the Act.

The composition of the Board is set out in Section 5 of the Act. There are five members of the Board.

### Chair

The Chair must be a legal practitioner of at least five years' standing and who has legal experience in areas of law relevant to the position.

**Mrs Ann Cunningham** was appointed Chair of the Board commencing on 15 February 2017 for a 3-year period. Mrs Cunningham is an experienced legal practitioner, tribunal and board member including as chairperson. Mrs Cunningham is a Senior Member of the Commonwealth Administrative Appeals Tribunal, Presiding Member of the Resource Management and Planning Appeals Tribunal and Commissioner with the Tasmanian Planning Commission.

Mrs Cunningham is also a Fellow and State Divisional Councillor of the Australian Institute of Company Directors and a member of the Theatre Royal Management Board.

### **Members**

Two members must be property agents who have at least five years' experience as property agents.

One of these members is nominated by the body representing the property agents industry, the Real Estate Institute of Tasmania (REIT).

The other two members of the Board must not be property agents.

### **Property Agent Members**

**Mr Adrian Kelly** is a Real Estate Agent and Auctioneer. He is the proprietor and CEO of a Tasmanian real estate firm with six offices in Tasmania. Mr Kelly is a current board member of the Real Estate Institute of Australia and is currently a board member and former President of the Real Estate Institute of Tasmania.

Mr Kelly was nominated by the REIT to be a member of the Board and was re-appointed as a property agent member on 15 February 2017 for a 3 year term.

**Mr Andrew Wright** has held a General Auctioneer's Licence in Tasmania since 1986 and is the Proprietor of his own Auction & Valuation Business.

Mr Wright is a Past National President of the Auctioneers & Valuers Association of Australia and was awarded Life Membership of this National body in 2007 for his service to this industry.

Mr Wright is a member of the Australian Institute of Company Directors.

Mr Wright was appointed to the Board on 15 February 2017 for a period of three years.

### **Non Property Agent Members**

**Ms Belinda Webster** retired as University Secretary at the University of Tasmania at the end of 2016. She worked as a lawyer and governance professional in the tertiary education sector in Victoria and Tasmania for over 20 years, and as a Parliamentary Counsel in those States for 15 years. Ms Webster is an experienced board member and a Fellow of the Australian Institute of Company Directors.

Ms Webster was appointed to the Board on 7 August 2017 for a period of two years. This is her third term with the Board.

**Ms Liz Rodd** was admitted to the Supreme Court of Western Australia as a Barrister and Solicitor in 2004 and subsequently worked for law firms in Perth. She moved to the mining industry in Kalgoorlie and worked in the role of Supply Superintendent for five years prior to relocating to Tasmania.

Ms Rodd currently works for Hydro Tasmania as Manager Supply Chain and is a member and graduate of the Australian Institute of Company Directors.

Ms Rodd was appointed to the Board on 7 August 2017 for a period of three years.

**Board member attendance at meetings for 2017-2018**

Meeting Date and Number	A Cunningham	A Wright	A Kelly	B Webster	K Backhouse
19 July 2017 (113 <sup>th</sup> )	1	0	1	1	1
9 August 2017 (114 <sup>th</sup> )	1	1	1	1	0
<b>Meetings attended</b>					<b>1/2</b>
Meeting Date and Number	A Cunningham	A Wright	A Kelly	B Webster	L Rodd
12 September 2017 (115 <sup>th</sup> )	0	1	1	1*	1
12 October 2017 (116 <sup>th</sup> )	1	1	1	1	1
15 November 2017 (117 <sup>th</sup> )	1	1	1	1	1
20 December 2017 (118 <sup>th</sup> )	1	1	1	1	1
15 February 2018 (119 <sup>th</sup> )	1	1	1	1	1
21 March 2018 (120 <sup>th</sup> )	1	1	1	1	1
3 May 2018 (121 <sup>st</sup> )	1	1	1	1	1
14 June 2018 (122 <sup>nd</sup> )	1	1	1	1	1
<b>Meetings attended</b>	<b>9/10</b>	<b>9/10</b>	<b>10/10</b>	<b>10/10</b>	<b>8/8</b>

\* Appointed to Chair that meeting

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# Operations





## Our Staff

During 2017-2018 the Board increased its office staff by 1 FTE through the implementation of the final recommendation of the staff review that commenced in 2016-2017 which examined the impact of the legislative changes on workload, roles/duties and stakeholder engagement.

The Board directly employed six staff (5 FTE equivalent):

- a Complaints Officer (part-time);
- an Examination Coordinator (part-time);
- the Executive Officer;
- a Licensing Coordinator (part-time);
- an Office Administrator; and
- an Operations and Office Manager, who commenced in October 2017.

A Board Inspector is also engaged on a casual basis to conduct state-wide inspections of the trust accounts of general auctioneers, real estate agents and property managers.

### *Complaints Officer*

The Complaints Officer conducts assessments and prepares reports and initial action for the Board regarding complaints.

As directed by the Board, the Complaints Officer conducts investigations, or facilitates more complex investigations, and prepares reports on them for the Board.

The Complaints Officer is required to maintain effective communication and relationships with complainants and other parties, including the preparation of necessary correspondence and dealing with telephone enquiries relating to complaints.

### *Exam Coordinator/Administration*

The Exam Coordinator is responsible for the management of the exam process for property representatives and general auctioneers. She coordinates the examination venues and exam supervisors, maintains a list of candidates, prepares all papers and distributes them to regional locations. The Exam Coordinator also notifies candidates of results and maintains a register of examination results.

The Exam Coordinator also is a point of contact for face-to-face and telephone enquiries.

### *Executive Officer*

The Executive Officer is responsible for providing advice and assistance to the Board in its day-to-day operations. The Executive Officer is also responsible for ensuring that the Board's policies and strategies for regulating the property industry are implemented and monitored and for providing high level strategic stakeholder engagement at a local and national level.

The Executive Officer is required to ensure the overall efficient operation of the Board and its staff.

The Executive Officer is Secretary of the Property Agents Trust, the Board's Right to Information Officer and was also the Registrar of the Property Agents Tribunal until February 2018.

#### *Licensing Coordinator/Executive Assistant*

The Licensing Coordinator is responsible for the management of the licensing applications and processes for all property agents. She maintains the statutory database, including the Registers, and tracks the legislative compliance of property agents.

This position also provides assistance to the Executive Officer in higher level administrative functions.

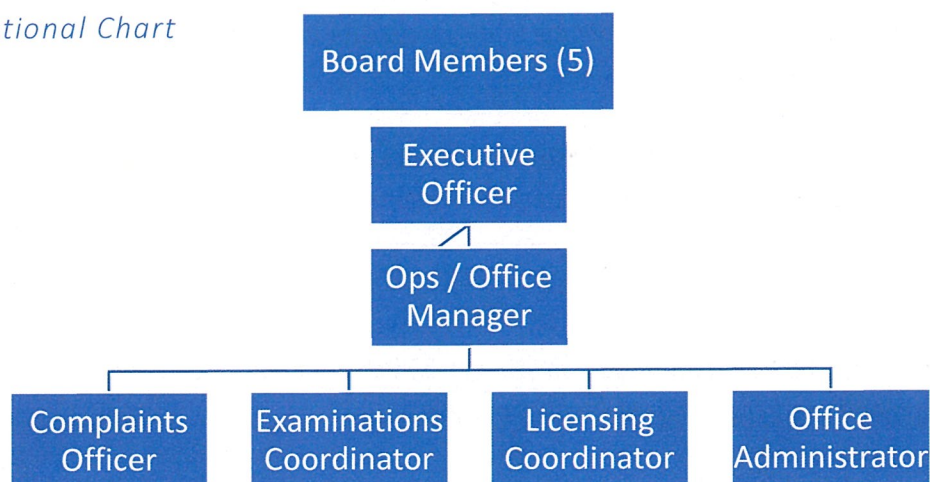
#### *Office Administrator*

The Office Administrator takes on much of the general administration duties. She provides the initial point of contact for face-to-face and telephone enquiries, manages incoming and outgoing correspondence and is a key support for the Complaints Officer and Licensing Co-ordinator as well as other staff as required.

#### *Operations and Office Manager*

The Operations and Office Manager is responsible for running of the day to day operations and overseeing all staff in the Hobart Office, under the direction of the Executive Officer. Acting as second in charge to the Executive Officer, she provides high level advice and guidance in stakeholder communications and policy operation with a particular role in Continuing Professional Development. The Operations and Office Manager was appointed as Registrar of the Property Agents Tribunal in February 2018.

#### *Organisational Chart*



## Office Move

On 9 December 2017, the Board moved from Level 2, 172 Collins Street Hobart to Level 1, 15 Victoria Street. In effect, this move was only from one level to another in the same building but the “official address” had changed.

Disruptions were minimised to the industry and the public as the Board staff and its IT consultant worked efficiently to ensure that the office and all systems were offline for only one business day with the new office officially open on Monday, 11 December 2017.

The move was necessitated as more office space was required to accommodate the Board’s staff and to secure an adequate meeting space to facilitate the Board’s monthly meetings and other stakeholder and industry engagements.

## Board Finance

The Board is funded by the industry (in the form of licence revenue, application and examination fees), by interest earned on retained funds and by grants from the Property Agents Guarantee Fund.

The re-alignment of income changing from registration periods to a set licensing period has corrected the Board’s income flow with a positive financial result. There has been an increase in Tribunal costs with a number of matters before it. While still a considerable expense there has however been a small reduction from the last reporting period regarding legal fees. The Board has utilised the Solicitor General’s Office relating to the interpretation and application of the Act, but it uses legal counsel for advice in relation to disciplinary action against property agents at the Tribunal and to defend its position at Tribunal or in Court.

The Board’s financial reporting is prepared in accordance with Australian Accounting Standards.

Financial reports are provided to and reviewed by the Board on a monthly basis. The financial reporting includes analysis of income and expenditure to budget and a comparison with the previous year’s figures.

The Board’s accounts are audited by the Tasmanian Audit Office each year. The Annual Financial Statements are provided later in this report.

## Fees

The fees collected by the Board are based on fee units which are published in the *Property Agents and Land Transactions Regulations 2017*.

The Board determined that the licence period was 1 July to 30 June each year and that being the case it was appropriate for half year licence fees to be paid for new applications for licence submitted after 1 January each year.



Fees 1 July 2017 – 30 June 2018	Full Year Fees 1 July – 30 June	½ Year Fees 1 January – 30 June
Application Assessment Fee	\$141.00	\$141.00
Real Estate Agent carrying on business (P1D1)	\$423.20	\$211.60
Real Estate Agent (P1D2)	\$141.00	\$70.50
Property Manager carrying on business (P2D1)	\$353.40	\$176.70
Property Manager (P2D2)	\$141.00	\$70.50
General Auctioneer carrying on business (P3D1)	\$423.20	\$211.60
General Auctioneer (P3D2)	\$141.00	\$70.50
Property Representative (P4)	\$71.30	\$35.65
Examination Fee	\$141.00	\$141.00

This table indicates the fees charged for full and half year licence fees.

## Right to Information Requests

The Board received one right to information request during the year which was subsequently withdrawn.

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# Licences

*to administer the licensing system for property agents established by this Act;*

*to maintain the Register;*



The Board must assess licence applications to ensure that only suitably qualified people enter the industry. The Board assists people seeking to obtain or renew a licence and to process applications in accordance with *Property Agents and Land Transactions Act 2016* ("the Act").

A purpose-built database is used to record all licences and assemble the Registers.

There are 4 types of property agent licences available in Tasmania.

- a real estate agent licence;*
- a property manager licence;*
- a general auctioneer licence;*
- a property representative licence.*

The Board can grant a licence with a condition or a restriction.

Each of these licenses are entered into a different part of the Register. Real Estate Agents are named in Part 1, Property Managers are named in Part 2, General Auctioneers are named in Part 3 and Property Representatives are named in Part 4.

If the property agent is conducting business, it is named in Division 1 of the relevant Part. As well as the name of the licence holder further information is required to be held in the Register, such as the address(es) where the business is being carried on, the business name and if it is a company, the name of each of the company directors.

If the property agent is not conducting business, then it is the name and address of the person and any other information that the Board determines that is included in the Register in Division 2 of the relevant Part.

The Board is required to publish the Register on its website.

All licenses are granted by the Board for the period 1 July to 30 June and are renewed every year.

Licences	As at 30 June 2017	As at 30 June 2018
Real Estate Agent carrying on business (P1D1)	204	221
Real Estate Agent (P1D2)	351	390
Property Manager carrying on business (P2D1)	8	11
Property Manager (P2D2)	18	24
General Auctioneer carrying on business (P3D1)	11	19
General Auctioneer (P3D2)	12	22
Property Representative (P4)	1053	1394

Of the overall number of property agents that are individuals, 60% are female and 40% are male.

### *Fit and Proper Person*

Pursuant to Section 18 of the Act, before granting or renewing a property agent licence the Board must be satisfied the applicant is a fit and proper person to be licensed.

To inform itself about the propriety of an applicant for a licence, the Board requires each applicant to:

- Answer questions about their history of disciplinary proceedings and qualifications in relation to any licence or registration;
- Submit a National Police Certificate (NPC); and
- Inform the Board of any changes to the NPC since the NPC was submitted to the Board.

In December 2017, the Board approved the Policy - Fit and Proper Person Assessment. This policy was adopted in order for the Board to make consistent assessments of the police histories (including criminal records) of applicants for a property agent licence and applies to all applications made for a licence under the Act or *Mutual Recognition Act 1992* (Mutual Recognition).

The Policy guides members of the Board and its officers with powers delegated by the Board by setting out the Board's fit and proper person criteria. It provides consistency and transparency so that any person wishing to become licensed will know the Board's licensing requirements as they relate to fit and proper person and will be able to make informed decisions based on those requirements.

### *Renewal process*

In this reporting period, the Board undertook its first full renewal process in order to re-issue licences for the 2018-2019 licence year.

Under section 22 of the Act, completed applications and fees are due by 30 April of each year but the Board has a discretion to accept applications for licence renewal and the requisite late fees by 30 June with processing due for completion by 30 June.

Preparation for renewals commenced in early March 2018 in the allocation of tasks to staff members, templates and processes settled and information provided to managing agents to prepare the business for renewals. All application for licence renewal forms with accompanying documentation were sent out in early April 2018.

As soon as the applications were sent to property agents, the Board staff received a significant increase in phone calls - statistics showed that phone calls more than doubled during April compared to last year with substantial increases in email traffic which responded to queries or follow up on incomplete applications and fees payable.



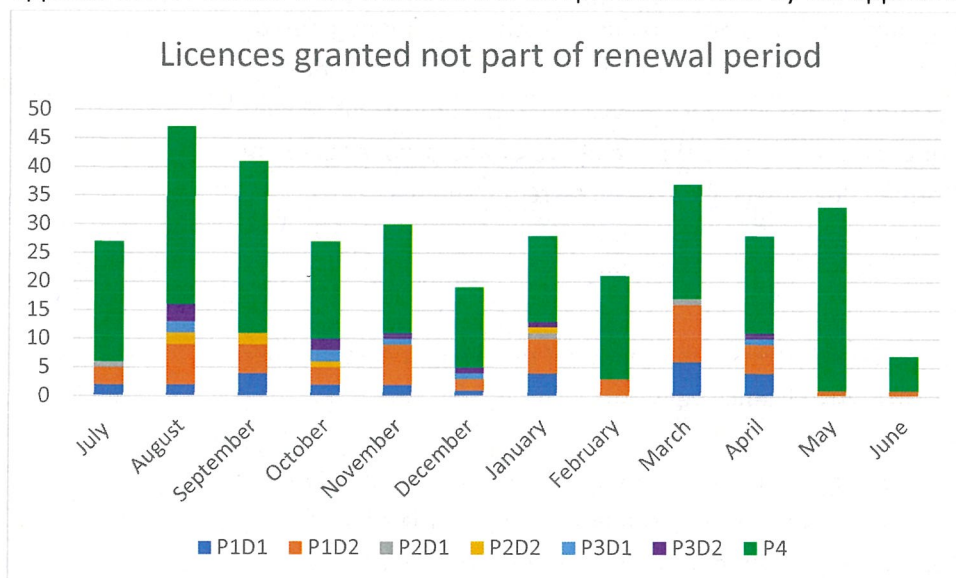
During the licence year many property agents had changed employers and details needed updating on the Registers. The renewal workload also increased due to the inclusion of property representatives in the continuing education program. Over 1,800 application for licence (renewal) forms were reviewed for appropriate Continuing Professional Development (CPD) codes and hours claimed. This compliance exercise was labour intensive with many follow up contacts of property agents required. Approximately 70 continuing education extensions were approved and 10 continuing education exemptions (full or partial) were granted.

The renewal process provided an opportunity for the Board to see trends and issues in the industry and this has informed policy and process development.

The Board completed the application for licence (renewal) process on the licensing system by 30 June 2018 and hard copies of licences issued shortly thereafter.

The Board's staff seeks to constantly improve its processes and has undertaken a review of the renewal process to identify issues and to make recommendations to improve efficiencies for next year's renewal process.

A total of 365 new licenses were granted during the reporting period and further 7 applications for licence were withdrawn or not proceeded with by the applicant.



### Applications to manage more than one office

Pursuant to Section 36 of the Act, the Board received 11 applications during the reporting period for a real estate agent to manage more than one authorised place of business. All were approved for a 'trial' period of 3 months, after which, the real estate agent was requested to re-apply for permanent approval.

Overall there are 26 real estate agents who manage two authorised places of business and 2 real estate agents managing three authorised places of business. The South has a total of 13 such businesses, the North has 7 and the North-West has 8 of the multiple office approvals.

# Examinations

*to perform educational functions for the purposes of  
this Act;*



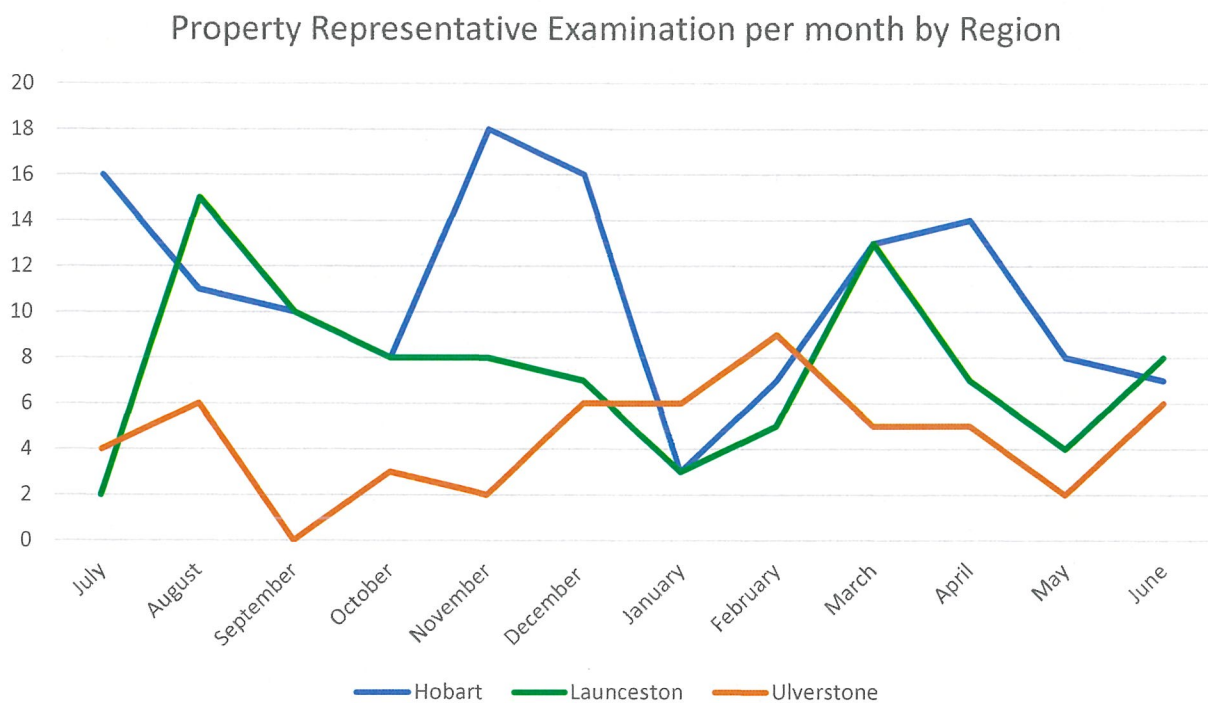
## Property Representatives

The *Property Agents and Land Transactions Regulations 2017*, at Regulation 41, provides that the prescribed educational qualification for a property representative is successful completion, within the previous 2 years, of an examination for property representatives administered by the Board.

The examination is an entry level examination which is designed to touch on a wide range of information. The examination is designed for the candidate to demonstrate a sufficient level of knowledge and understanding of the property industry as the expectation is that the person will build on this knowledge once working in the industry.

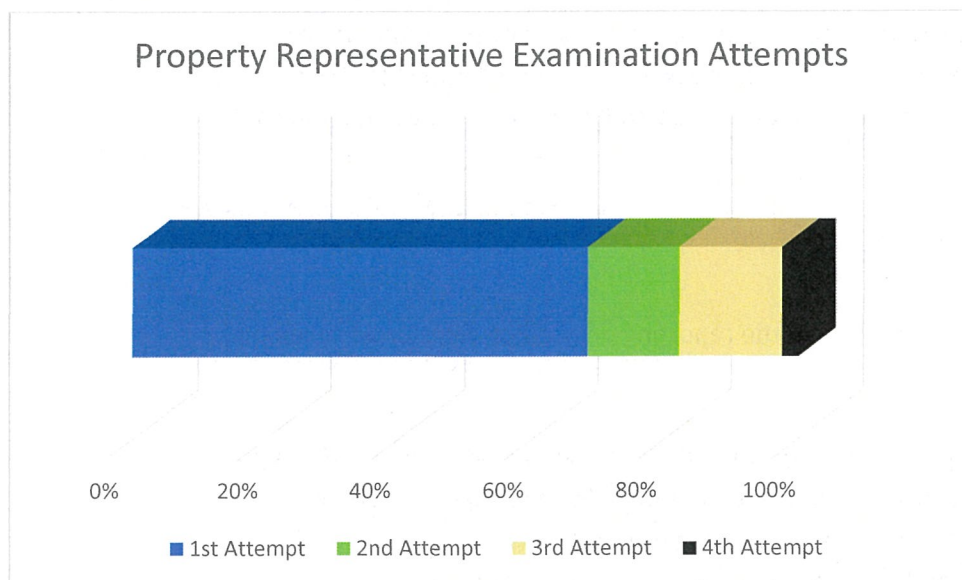
As the *Property Agents and Land Transactions Act 2016* ("the Act") does not divide sales and property management functions the examination covers both areas.

A total of 275 property representative examinations have been attempted in the reporting period. Of those 131 examinations were undertaken in Hobart, 90 in Launceston, and 54 were undertaken in Ulverstone.



Sixty Eight percent of candidates were successful on their first attempt, 81% were successful after two attempts and 97% were successful after their third attempt. Two candidates undertook a 4<sup>th</sup> attempt of the Property Representative Examination.





### *Enabling Examinations*

Under the *Property Agents and Land Transactions Act 2005* ("the Repealed Act") a person could choose whether they undertook the qualification to become either a property consultant (sales) or assistant property manager (property management) and therefore upon transitioning to the new licence category a person was issued a licence according to their knowledge and experience.

To remove a condition from a property representative licence, the licensee can undertake a short form examination set by the Property Agents Board, known as the "enabling examination".

The enabling examination is based on the topics necessary for the individual's licence to become unconditional.

If the licence is conditioned to undertake sales functions only, then an enabling examination based on property management questions needs to be successfully completed. Likewise, if the licence is conditioned to undertake property management functions only, then an enabling examination based on sales questions would be undertaken to remove the condition.

This type of examination is available for a two-year period from 1 April 2017, after which time, a licensee will need to undertake the full licensing examination to have a condition lifted.

Twenty-eight enabling examinations were conducted during the reporting period. Of those 19 examinations related to property management and 9 related to sales.

### *General Auctioneers*

There were 7 examinations for General Auctioneers conducted during the reporting period.

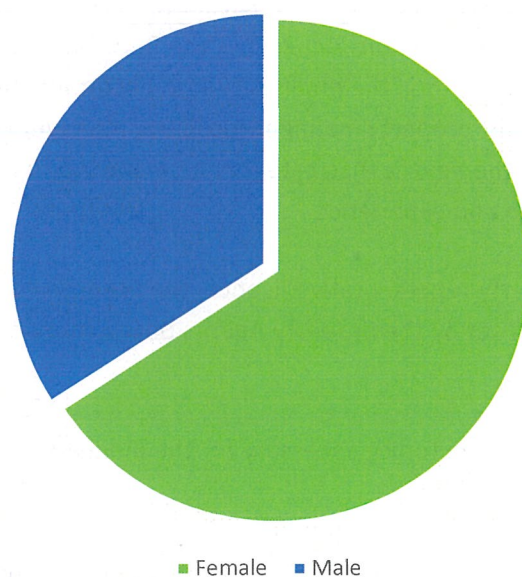
A person who seeks to become licensed as a general auctioneer is required to undertake 4 units of the National Training Package relating to legislation, trust accounting and conducting auctions then successfully complete an examination set by the Board.

### *Examination candidates by gender*

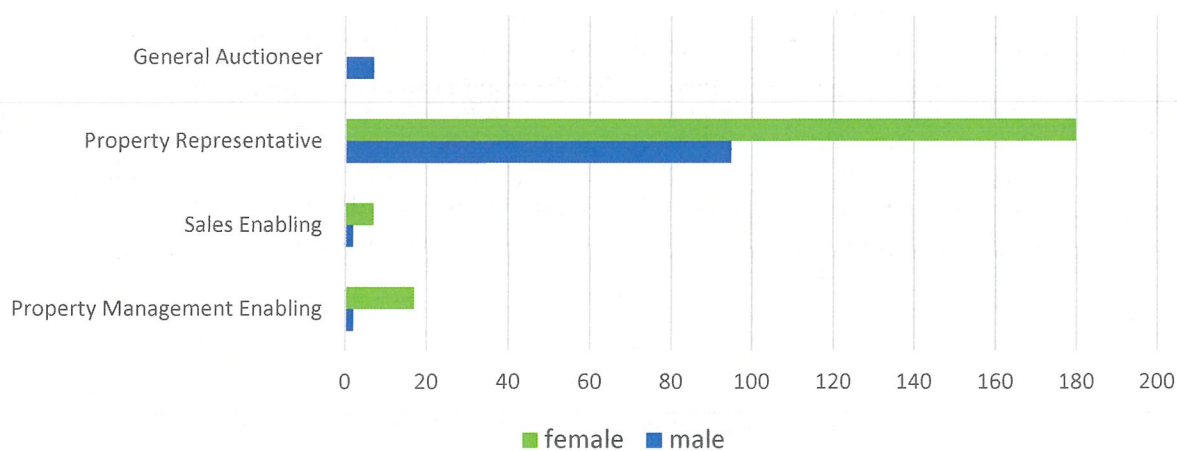
Of the 310 examinations held during the reporting period 204 were undertaken by females and 106 by males.

Of the 275 property representative examinations 180 were undertaken by females and 95 by males, of the property management enabling examinations 17 were female and 2 were male, of the sales enabling examinations 7 were female and 2 were male. All 7 general auctioneer examinations were undertaken by males.

Overall Examination Candidates by Gender



Candidate Gender by Examination Type



# Conduct and Complaints

to receive, investigate and determine complaints  
against property agents;

to provide support in the resolution of disputes  
relating to the conduct of property agents;





The Board strives to ensure that:

- all property agents comply with the requirements of the *Property Agents and Land Transactions Act 2016* ("the Act"), the *Property Agents and Land Transactions Regulations 2017* ("the Regulations") and the Code of Conduct;
- complaints are investigated promptly and dealt with by the Board in a timely manner; and
- prompt accurate advice is given to industry members and the public.

### Conduct complaint procedures

A complaint may be made about the conduct of a property agent by any person. For the Board to be able to deal with a complaint, it must be in writing. A complaint form template is available to assist the complainant to identify the conduct concerned and the identity of the relevant party complained about.

When a complaint is received by the Executive Officer a preliminary assessment is made and the grounds of complaint are established and confirmed by the complainant. Then a copy of the complaint is sent to the property agent with the invitation to provide submissions to the Executive Officer in relation to it.

The property agent's submission is provided to the complainant for comment.

The complaint is then assessed by the Board's Complaints Officer as to whether the information provided is sufficient for the Board to consider the complaint or whether it should proceed to investigation.

The Complaints Officer will prepare a report which is considered by the Board, together with all relevant material. The Complaint is then either summarily dismissed pursuant to Section 92 of the Act or proceeds to the investigation phase.

As the Board is required to provide both the complainant and the property agent with procedural fairness this preliminary stage can take some months.

If the complaint proceeds to investigation the Board continues to deal with the matter as efficiently and expeditiously as possible.

After an investigation, the Board does not refer a complaint to the Tribunal if it considers that there is insufficient evidence to substantiate the complaint (and therefore the complaint is dealt with under Section 100(a) of the Act). If the evidence indicates that the conduct only amounts to minor misconduct, the Board may deal with the matter itself pursuant to Section 101 of the Act.

In any other case, the Board must under Section 100(c) of the Act, refer the complaint to the Tribunal. The only exception to this is if while considering a conduct complaint the Board believes that the evidence it has indicates that a person has committed a criminal offence. In that case the Board must suspend its consideration of the complaint and provide the evidence to the Commissioner of Police.



## *Complaint Handling*

The majority of complaint enquiries are dealt with initially by telephone and the Board attempts to resolve matters before they result in formal complaints.

The Board's officers provide guidance on how a potential complainant might manage and resolve an issue as an alternative to lodging a formal complaint with the Board. This process involves substantial time, but is cost effective in comparison to the resources required to investigate a formal conduct complaint.

On average, 58 telephone complaint enquiries are received each calendar month.

The Code of Conduct includes a requirement for property agents to maintain a dispute resolution process. The industry is increasingly implementing these, and the Board considers that using the property agent's process may result in more frequent and amicable resolution of complaints.

## *Overall complaint management during 2017-2018*

Twenty-Four complaints were carried forward from 2016-2017. A total of 67 complaints were received during 2017-2018. 30 complaints remain unresolved as at 30 June 2018.

A total of 61 complaints were concluded during the reporting year, and 31 investigations were undertaken. From those matters investigated, 18 were dealt with under Section 100(a) of the Act as the Board was satisfied that there was insufficient evidence to substantiate the complaint. Eight complaints were considered as amounting to minor misconduct that could be adequately dealt with by the Board, and five matters were referred to the Tribunal. The Board engages legal counsel to represent it at the Tribunal. Many of the complaints dealt with during the year were more complex in nature which required the Board to seek advice from the Solicitor General or independent legal advice.

Two matters were over 12 months old and the Board determined in both cases it would cause injustice to accept the complaint or that it was not in the public interest to investigate it.

A total of 24 matters were dismissed pursuant to Section 92 of the Act on the basis that the Board was satisfied that the complaint was misconceived or lacking in substance. Seven matters were withdrawn by the complainant.

## *Complaints received 2017-2018*

There were 67 conduct complaints received by the Board during this period, of which 41 were finalised and 26 remained outstanding as at 30 June 2018.

Of the 41 complaints received and finalised in the year, 21 were dismissed pursuant to Section 92 of the Act as the Board was satisfied that the complaint was vexatious, misconceived, frivolous or lacking in substance or that information requested from the Complainant was not provided to the Board.

Five of these complaints were dealt with under Section 100 of the Act, on the basis that the Board was satisfied that there was insufficient evidence to substantiate the complaint. Five complaints were dealt with under Section 101 of the Act as the Board was satisfied that the conduct complained about only amounted to minor misconduct that could adequately be dealt with by the Board.

One complaint was referred to the Tribunal.

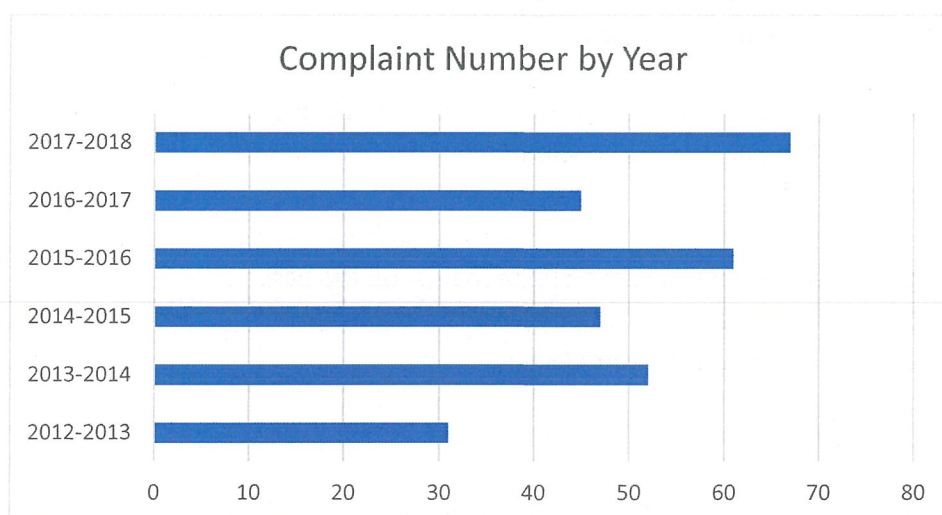
Eight complaints were withdrawn by the complainant, and the Board was satisfied that it was not in the public interest to continue to investigate those complaints.

The Board determined pursuant to Section 88 of the Act not to accept one complaint as it involved conduct more than 12 months old.

### Complaints carried forward

Of the 24 complaints which were carried over from the previous reporting period, 19 were finalised. Two matters are continuing to be investigated. Three matters are on hold due to other matters which were required to be resolved before the complaint process could continue.

Of the 19 complaints finalised, seven matters were dismissed pursuant to Section 92 of the Act as the Board was satisfied that the complaint was vexatious, misconceived, frivolous or lacking in substance and seven of the complaints were dealt with under Section 100 of the Act that there was insufficient evidence to substantiate the complaint. Two of the matters were dealt with under Section 101 of the Act as minor misconduct and the property agents issued with a caution and one matter was referred to the Tribunal. One matter was withdrawn by the complainant and one matter was dismissed by the Board as the conduct was more than 12 months old.



# Statistical information for the complaints received for the past six years

	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018
	Total	Total	Total	Total	Total	Total
	31	52	47	61	45	67

## Category

Landlord	10	9	7	10	17	14
Other	7	12	12	12	5	16
Purchaser	2	12	5	7	10	13
Tenant	4	11	15	19	4	16
Vendor	8	8	8	13	9	8
	31	52	47	61	45	67

## Principal Allegation

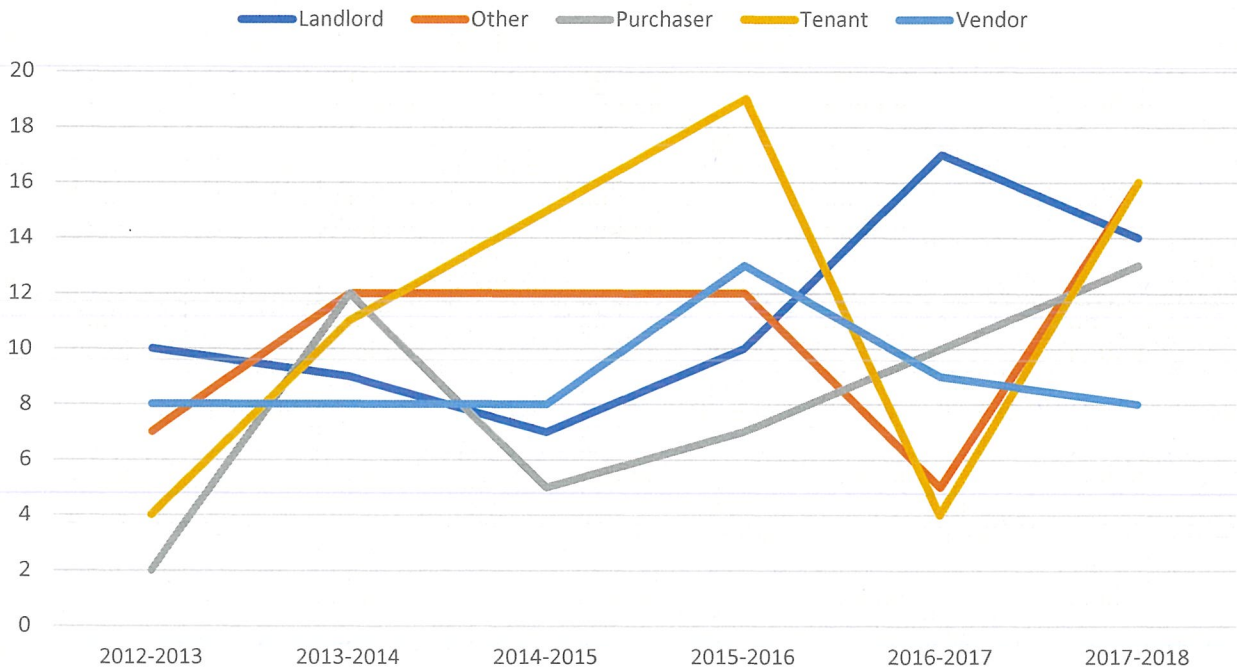
Bringing the industry into disrepute						1
Conflict of Interest				4	1	2
Disclosed information relating to the affairs of the client					1	
Demand Payment or fees exceeding those agreed to						2
Excessive or incorrect fees						1
Failure to act fairly, honestly and in a reasonable manner		13	14	25	13	29
Failure to act in client's best interests		11		7	8	11
Failure to ascertain all pertinent facts						1
Failure to diligently supervise			4	4	4	2
Failure to exercise due care, skill or diligence	9	7	11	3	6	1
Failure to follow client's lawful instructions	11	2	3	3	3	
Failure to make all reasonable efforts to resolve a complaint			1	1	3	
Failure to obtain best price and conditions				1		
Failure to properly deal with funds	3	5	3	2	1	3
False or misleading advertising	1	7	5	1	4	3
False or misleading information					1	1
High Pressure Tactics		5	1	1		3
Legislative Breach			2	5		1
Misrepresentation or misleading conduct	7	2		4		1
Professional Misconduct			1			
Publish an advertisement without authorisation			1			
Unsatisfactory professional conduct						3
Undefined complaint withdrawn			1			2
	31	52	47	61	45	67

## Complaint Status

Caution			1	1	3	1
Complaint Pending					1	
Complaints Officer Report					3	19
Draft Decision				1		
Explanation				1		
Insufficient evidence	10	12	14	18	9	5
Investigation						7
Lacking in substance	4	20	12	17	15	19
Misconceived	2		1		1	1
No information provided by complainant		2		2	2	1
On Hold						
Over 12 months			1	3	2	1
Police - referred to			1	1	2	0
Reprimand and/or undertaking	6	7	5	4	1	4
Tribunal - referred to	3	3	2	3	1	1
Withdrawn	6	8	10	10	5	8
	31	52	47	61	45	67



## Complainant type by year



The graph above shows the complainant type each year over the last six-year period.

Complaints by Landlords have dropped slightly since last year from 17 complaints to 14, however complaints by tenants have jumped considerably, from 4 complaints during 2016-2017 to 16 complaints during this reporting period.

This change is mirrored with the increase of the principal allegation of failure to act fairly, honestly and in a reasonable manner.

There has again been a slight reduction in complaints from vendors but a further increase in the number of complaints from purchasers for the fourth consecutive year.

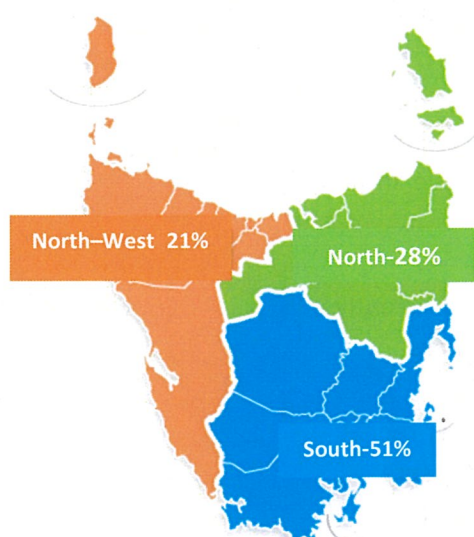
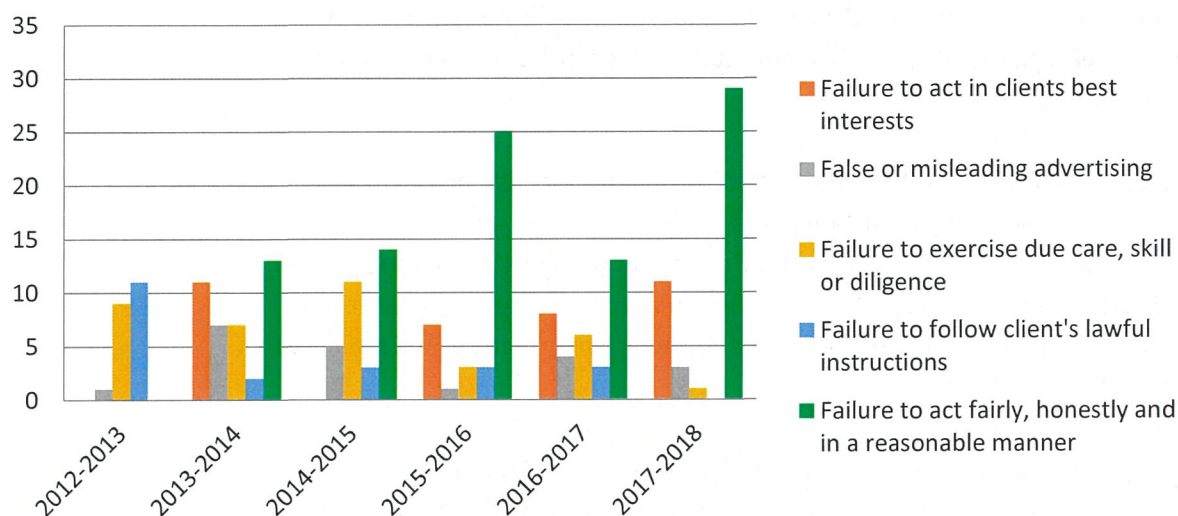
Complaints from landlords usually related to a failure to act in the client's best interest or in accordance with the client's lawful instructions, a failure to properly deal with funds, or a failure to exercise due care, skill or diligence.

Complaints made by purchasers mainly related to an allegation of false or misleading advertising or misrepresentation or misleading conduct. Vendors complained that the property agent had engaged in high pressure tactics or failed to act in the client's best interests.

The "Other" complaint category relates to a property agent making a complaint against another property agent or the Board initiating a conduct complaint of its own volition. The principal allegation for these complaints relate to legislative breaches, professional misconduct or a conflict of interest.



## Top 5 Principal Allegation over 6 years



The above graph indicates the top five principal allegations over the last six years.

Most complaints contain more than one ground of complaint, in which case, the principal allegation is determined by the most serious allegation.

This map of Tasmania shows the percentage of complaints per region over the reporting period. The North-West region has had an increase in complaints from 15% to 21%, the northern region has also increased from 17% to 28%. The South has reduced its percentage of complaint from 68% down to 51%.

## Infringement Notices

Under s.167 of the Act, infringement notices can be issued and served where an infringement offence is committed against the Act or the Regulations. The Regulations provide for an amount for each offence in accordance with schedule 2 Part 1 of the Regulations that can range from 5 penalty units for an individual up to 300 penalty units for a body corporate. It should be noted that offences are prescribed in 'penalty units' which are indexed annually under the *Penalty Units and Other Penalties Act 1987*.

Whilst the issuing and serving of valid notices is the purview of the Board, the Monetary Penalties and Enforcement Services (MPES) of the Department of Justice collects these infringement notice penalties (fines) which are payable into the Tasmanian Government's Consolidated Fund.

The Board has appreciated the valued assistance from the Monetary Penalties Enforcement Services (MPES) relating to the issuing of valid notices and any other information relating to policy and implementation to ensure compliance with the MPES collection requirements.

Given the relatively recent introduction of infringement notices, the Board has implemented an appropriate educative phase and has created a policy on when an infringement should be issued. A key component of this educative phase has been for the Board to send correspondence relating to specific matters where there appears to be a breach of the Act or Regulations which may warrant the issuing of an infringement notice.

The Board in moving into the next phase has adopted an Infringement Notice policy in order to provide a consistent enforcement framework for the Board to issue infringement notices and for an infringement notice to be reviewed if requested.

The policy aims:

- to establish clear guidance on when and why the Board may issue an infringement notice;
- to ensure that the Board's statutory functions are exercised consistently and impartially, in the public interest and with procedural fairness;
- to promote professionalism among property agents and to deter repeat offenders via behavioural change through using this policy to ensure compliance.

# Trust Accounts

*to supervise the trust accounts of property agents;*





The *Property Agents and Land Transactions Act 2016* ("the Act"), the *Property Agents and Land Transactions Regulations 2017* ("the Regulations") set out how property agents are to maintain their trust account records, and the Board requires full compliance with the trust account provisions.

Property agents are required to submit trust account reports to the Board for the six-month periods ended 31 December and 30 June. Further, a special purpose audit report and checklist as to the property agent's trust account(s) for the financial year is required to be received by 30 September each year. This audit is performed by an independent auditor.

If the property agent does not hold money in trust, then they may submit an Audit Exemption whereby they declare that they have not held money in trust during the financial year.

### *Trust Account reports*

Around 255 trust account reports were received for the two periods ended 31 December and 30 June. This number can fluctuate slightly as trust accounts may be opened or closed during the reporting period or may not hold any money for the specified period and therefore a report is not required.

### *Annual Trust Account Audit Reports Overview (2016-2017)*

As the results for the annual trust account audit report are not available until after September, the results reported in this Annual Report relate to the 2016-2017 financial year.

The annual audit process is one of the key regulatory controls to assist the Board in managing its obligations over the industry under the Act. It is also a key factor in identifying where inspection resources can be prioritised.

232 audit reports and checklists were received by the statutory deadline of 30 September 2017. There were 19 property agents who submitted audit reports during October with 13 with outstanding audit reports as at 31 October 2017. A total of 265 audit reports, checklists and relevant correspondence have been reviewed.

	2013	2014	2015	2016	2017
No. of Accounts to be audited	246	241	239	242	265
Qualified Reports	13	20	34	54	130
No. of Property Agents with Qualified Reports	7	17	20	35	84

The focus for the 2016-2017 audit year was for auditors to specifically check the trust accounting documentation used by property agents. This included checking the name, and ABN/ACN was correct as well as other prescribed information was included on the relevant documents used by the property agent. This reporting identified that numerous property agents are non-compliant, which is indicated by the increased number of qualified audit reports. Most of the breaches are classified as a technical breach rather than any significant wrong doing.

As part of the review process, emails and letters were sent to auditors and property agents to clarify missing information or wrongly answered items in the audit checklist, to seek explanation and confirm rectification of matters raised.

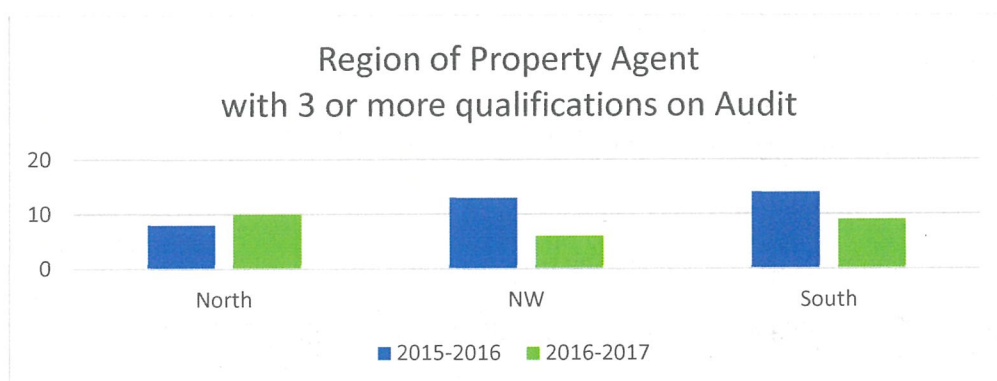
Issues raised in many of the audit reports were minor in nature and the managing property agent had agreed to rectify in most instances.

The main breaches raised in the audit reports are under Regulation 6 (endorsement of monthly reconciliations) which again remains an area for improvement with 46 audit reports qualified in this area.

Forty-Eight audits received qualifications regarding Trust Account Receipting, 94 audits were qualified regarding trust account deposits and there were 45 reports qualified regarding payment from the trust account. These numbers mostly relate to technical breaches.

The monthly reconciliations and other reconciling issues were also highlighted as problem areas having 82 reports qualified.

Twenty-Five property agents (involving 35 trust accounts) received qualified audits for the 2016-2017 financial year with 3 or more qualifications.



It is disappointing that 14 of these property agents also had qualified reports in the 2015-2016 year. There has been a pleasing reduction in the number of qualified audit reports for property agents in the north-west compared with last year's results. It is considered this result may be due to an increased number of inspections conducted in that region during the year.

There has been an increase in the number of auditors enquiring as to whether a Board inspection or specific review of the trust accounting and other associated records was undertaken during the audit year.

This is the fourth year that the Board has requested the auditors to provide an approximate number of rental properties of all kinds being administered through each Property Agent's trust account. Receiving this estimate figure helps to assess the size of the operational environment in each office and provides context and a relevance to the materiality of the issues mentioned in the audit report.

The approximate number of rental properties of all kinds, which includes some car parks and holiday rentals, managed by all Property Agents throughout the State totalled 33,357 compared with 29,660 reported last year and 30,932 for the 2014-2015 year.

### Trust Account Use

The following table indicates the type of money held in trust accounts. The majority of accounts are purpose specific, that is the property agent will use separate accounts for sale deposits or property management functions.

Auction relates to licensed general auctioneers. A small proportion of accounts hold trust money relating to both sales and property management activities. These accounts are usually held by smaller sized agencies.

No of accounts by use	2015-2016	2016-2017
Rentals	109	114
Sales	101	111
Both (Sales and Rentals)	22	30
Auction	10	10
Total	242	265

### Accounting Software

As in prior years, a substantial number of minor issues were raised in relation to accounting systems. This involved telephone calls and email requests for information or reconciliations to clarify the seriousness and materiality of issues raised in the audit reports.

The software packages most commonly used for managing trust accounts are:

Package	2015-2016	2016-2017
Console	31%	24%
Rockend (REST, Property Tree)	21%	21%
Franchise group specific	11%	11%
Manually or in combination with the use of spreadsheets	7.3%	5.6%
My Desk Top	2.8%	4.9%
Non-industry specific accounting software (MYOB/XERO etc)	4%	4.5%
Multi-Array	4.5%	3.7%
Other (small providers)	18.4%	25.3%

### Inspections

The Board continued its Inspection program reviewing trust account and audit reports, and in accordance with its checklist for undertaking investigations and inspections.

As well as qualified audit reports being received from auditors or from the inspection program, there are three other ways that non-compliance with the trust account provisions may come to the attention of the Board:



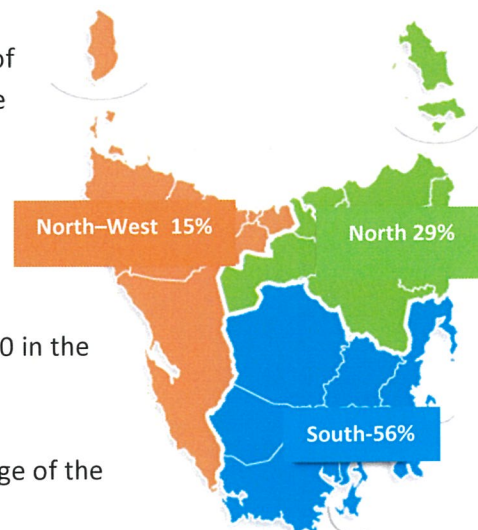
- during an investigation into a conduct complaint;
- through a complaint directly relating to a Property Agent's operation of the trust account; and
- through financial institutions notifying the Board when a trust account becomes overdrawn.

The inspection program is a cycle-based program with an inspection of each property agent's trust account and statutory records every three years.

Thirty-four inspections were undertaken during 2017-2018, compared with 29 inspections undertaken during 2016-2017.

Of the total, 19 inspections were conducted in the Southern region, 10 in the North and 5 in the North-West.

This map of Tasmania shows the inspections per region as a percentage of the total.



#### *Additional assistance*

During the reporting year, the Board became aware that the subject of a Tasmania Police missing person alert was a property agent who ran a remote real estate agency business. Action was initiated under the Act to ensure that all money held in trust remained protected by issuing and serving a notice to the relevant financial institution directing it not to permit financial withdrawals from the real estate agency's trust account.

As the property agent was later found deceased, the Board provided guidance to the partner of the property agent. Under the Act the personal representative of a deceased property agent can be named in the Board's Registers which allows that person to service the agency's clients in the short term.

Many clients and customers of the agency also contacted the Board for advice and assistance during this time. The Board's Inspector provided assistance and met with the personal representative and reviewed transactions in order to plan for distribution of funds from the sales and rental trust accounts. Once the personal representative demonstrated competence to manage the trust accounts, the notice served on the financial institution was lifted so settlements of property and distributions of rental payments could be made to landlords.

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# Schemes of Arrangement

- establish, administer and process claims against the Property Agents Guarantee Fund; and





Property agents must maintain a trust account with an authorised deposit - taking institution that has been Board approved.

Section 147 of *Property Agents and Land Transactions Act 2016* ("the Act") provides for the Board to enter into a Scheme of Arrangement with a financial institution for the keeping of trust accounts. These Schemes of Arrangement are entered into by a written deed to allow payment of interest from these trust accounts into the Property Agents Guarantee Fund (the Fund).

The Property Agents Trust (the Trust) maintains the Guarantee Fund and its functions are as prescribed in S142 of the Act. They can be summarised as follows - to meet claims for loss and pay compensation suffered by people as a result of acts or omissions of property agents. In accordance with S149(4)(a) of the Act, the Property Agents Guarantee Fund must be built up and be maintained to a minimum of \$8 million.

The Schemes of Arrangement that were executed in 2010 and 2011 provided the interest to be paid as follows: *"if the institution pays interest to the Trust within ten business days of the end of the month then the interest rate will be the interest rate less 1.5%."* The interest rate is the Reserve Bank Cash Rate and has been at 1.50% since 3 August 2016.

At the time the Schemes of Arrangement were entered into, it was not envisaged that the Reserve Bank Cash Rate would reduce to such an extent that there would be minimal or zero interest payments from the approved institutions. With outgoings from the Guarantee Fund, the Board was concerned whether the Guarantee Fund could maintain its funds to the statutorily required minimum.

During this reporting period, the Board contacted approved financial institutions to seek an amendment to its current Scheme of Arrangement between the Board and the financial institution relating to an agreed interest rate to pay the Guarantee Fund. The Board has successfully negotiated a variation of all Schemes of Arrangements such that a minimum 1% interest will be paid on property agents trust accounts. Given the amount of money held in trust accounts by property agents, this variation will create an important income stream to the Guarantee Fund.

# Guarantee Fund Claims

establish, administer and process claims against the  
Property Agents Guarantee Fund;



The Property Agents Guarantee Fund was established under section 164 of the *Property Agents and Land Transactions Act 2005* ("the Repealed Act") and has continued in existence under section 149 of the *Property Agents and Land Transactions Act 2016* ("the Act"). Its functions are to meet claims for loss suffered by people as a result of certain acts or omissions of real estate agents named in Part 1 (1) of the Register, property managers named in Part 2(1) of the Register or general auctioneers named in Part 3 of the Register and people employed or engaged by them or acting on their behalf.

In 2013, the Board was made aware that an amount of money had been stolen by an employee of a real estate agent named in part 1(1) of the Register. The money stolen concerns some 132 security deposits and money owing to creditors, the total loss amount is estimated in the vicinity of \$135,000. The total number of claims made from the Property Agents Guarantee Fund to 30 June 2018 was 116, and the total paid from the Guarantee Fund was \$80,925.59. In the current reporting period, 7 claims were made totalling \$4,570.00. Payments to tenants were \$4,260.00 and \$310.00 to landlords. The Table below provides a summary of the claims made per reporting period.

Year	No. of claims	Payments
2013-2014	44	\$30,831.15
2014-2015	38	\$28,085.53
2015-2016	14	\$9,153.20
2016-2017	13	\$8,285.71
2017-2018	7	\$4,570.00
<b>Total</b>	<b>116</b>	<b>\$80,925.59</b>

## Professional Indemnity Insurance

Section 131 of the Act provides that real estate agents, property managers and general auctioneers conducting business must maintain an appropriate level of professional indemnity insurance cover and this cover must be provided by an insurance company approved by the Australian Prudential Regulation Authority. As such, the Board will not licence a business until it is satisfied that appropriate professional indemnity insurance is in place by the applicant providing a Certificate of Currency. The licence of the property agent is to be taken to have been suspended during any period when the property agent does not have the professional indemnity insurance.

The Board's ability to monitor professional indemnity insurance held by property agents conducting business provides an effective channel for it to provide a level of consumer protection. The Board monitors compliance with the Act by maintaining a robust register of professional indemnity insurance for all businesses which amongst other things, highlights the date on which the property agent's insurance is due to expire.

The Board is proactive in its engagement with the industry and sends out notifications to those businesses who have not provided a new professional indemnity insurance certificate of currency when its old professional indemnity policy has expired.



# Code of Conduct and Legislative Amendments



## Code of Conduct

Under section 84 of *Property Agents and Land Transactions Act 2016* ("the Act"), the Board must establish and keep under review a Code of Conduct for property agents to regulate their professional practice, conduct and discipline.

During this reporting period, the Board undertook a full review of the Code of Conduct. As a result, the Board recommended a suite of amendments collating a matrix to explain the changes and the rationale for these changes.

A number of the suggested amendments were more technical in nature with renumbering or reformatting and providing additional wording to give more context and meaning.

A key recommendation has been to place further emphasis on enhancing professionalism within the property agents industry through promoting rules of conduct relating to relationships with clients, customers and colleagues.

As all property agents' relationships are based on mutual respect and collaboration, these concepts of professionalism go to the heart of the industry and were embedded with the inclusion of the definition of 'colleague'. A new part in the Code of Conduct dedicated to the concepts of professionalism titled 'Professionalism in the Property Agents Industry' has also been included.

In April 2018, the Board provided a draft for consultation with key stakeholders such as the Real Estate Institute of Tasmania, Shelter Tasmania, Tenants Union of Tasmania, and the Residential Tenancy Commissioner. Another consultation mechanism used by the Board was to publish the draft version on its website for the property industry and public to comment. Responses to the draft for consultation were very positively received and as a result the Board determined to implement the draft version as a new revised version of the Code of Conduct (Version 3).

The Board has published Code of Conduct (version 3) effective 1 July 2018 on its website and provided each licensed property agent with a copy of the Code of Conduct when it issued licences for the 2018-2019 licence year.

## Legislative Amendments

Section 6 of the Act provides that the Board is to advise the Minister on any matters relating to the Act.

The Board has assembled a list of proposed amendments to the Act. These amendments are required as anomalies have been discovered since the implementation of the Act. The Board appreciates that a practical application of legislative concepts is required before issues can be identified. In many cases the Board has sought advice from the Solicitor General's Office to ensure that its interpretation of the Act has been accurate before proposing any amendment.

### *Functions real estate agents and property managers not employed to manage (new requirement)*

There is a deficiency in the Act relating to the definition of real estate agents named in Part 1(2) and property managers named in Part 2(2) of the registers who are not engaged to manage a real estate agency business or property management business but employed (or contracted) to undertake the buying, selling and property management functions as relevant to that business.

### *Real estate agents and property managers not employed to manage (contract services) (new requirement)*

There is no provision for a real estate agent or property manager of the Registers to be able to contract services – this is for taxation purposes.

As per Section 38(2) for property representatives.

*(2) A real estate agent named in Part 1(1) of the Register or a property manager named in Part 2(1) of the Register must not enter into a contract with a body corporate for the performance, by a person who is an employee or contractor of the body corporate, of the functions of a property representative unless the individual is a property representative.*

### *Qualifications (Sections 25, 26 and 27)*

There has been a drafting change for a person to be qualified and granted a licence from being a “real estate agent” to a person engaged in a “real estate agency business”. This fundamentally changes the qualification, as an individual may be employed by a real estate agency business but not necessarily as a real estate agent; eg a property representative who has been employed for a period of two years would satisfy the requirement. The Board does not believe that was intended nor is it desirable.

The same comment applies to the provisions as to qualifications for a property manager licence and for a general auctioneer’s licence.

### *Published Registers – Privacy (Section 29)*

The Act prescribes the information that the Register is to contain, which includes the name and address of each property agent.

The Board agrees that the practical application of publishing the register is not complicated but the Board seeks amendment to protect an individual’s personal details being published.

Provisions confine, in other Acts, information that is to be published from the “main” Register for example, the *Occupational Licensing Act 2005* outlines the information to be included and excluded from the registers that are to be published.



That Act specifically excludes the publication of a person's residential address (see section 49 of that Act).

An amendment to section 29(6) is required to exclude the residential address of a real estate agent, a property manager, a general auctioneer or a property representative from the information in the Register that is to be published on the Board's website.

### *Management of Businesses (Sections 26,27 and 60)*

Reconsideration is requested of the situation where a corporate licensee carries on real estate agency business and manages a business.

The Board considers that in order to be able to sheet home responsibility for management of a real estate agency business an individual needs to be named as the person responsible for the management of that business. The responsible person must be a licensed person in order for the Board to have jurisdiction.

### *False or misleading advertising &c., by property agents (Sections 56 and 65)*

The Board considers that the requirement that the agent knows that a representation is false or misleading provides too high a level of protection to the property agent. The Board suggests that the requirement should be removed, with provision made for a defence for the agent in circumstance where he or she has reasonably relied on information supplied by third parties.

### **Code of Conduct**

This section seems to require the Board issue to each property agent a printed copy of the Code of Conduct and every revised edition of it.

This is not practical, nor is it necessary. The Code is made available on the Board's website and agents are notified by email and through the Board's regular newsletter of any amendments, and a current hard copy is maintained at the Board's offices.

### *Qualifications (2) (Regulation 41)*

There has been a review of the National Training Package. Once it has been ratified the following amendments are required.

#### **Existing**

CPP30211 Certificate III in Property Services  
CPP40307 Certificate IV in Property Services (Real Estate)  
CPP50307 Diploma of Property Services (Agency Management)

#### **New**

CPP31218 Certificate III in Real Estate Practice  
CPP40018 Certificate IV in Real Estate Practice  
CPP50118 Diploma of Property (Agency Management)

### *Qualifications (3) Regulation 41)*

There has been a review of the National Training Package. Once it has been ratified the following amendments will be recommended.

A major change has occurred to incorporate skill sets to support additional licence classes/endorsements.

This approach has focused on occupational analysis as a basis for rebuilding the qualifications and unit structures to align with current and emerging work practices and to support a more consistent regulatory approach.

Board requests an amendment to the prescribed educational qualification for property representatives.

It is not suggested that the examination process should change, but that a property representative is required as a licensing requirement to complete CPP40018 Certificate IV in Real Estate Practice within the three years of being licensed as a property representative.

The Board considers that having this qualification imbedded into the Regulations removes any uncertainty as to the ongoing requirements.

Property representatives undertaking compulsory training at a Cert IV level as a condition of his or her licence ensures that property agents to continue to maintain and update their knowledge and skills in the areas of industry developments, legislative change and work practices to a high standard.

Increasing technical awareness and knowledge capacity in the property agents industry also has a flow on effect to consumer protection providing for long term consumer benefits as well as consumer confidence in the property agents industry.

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# Education and Awareness



The Board has continued to provide:

- Over the counter information service to members of the public and property agents industry;
- A telephone information service to members of the public and property agents industry;
- Support and funding through the Property Agents Guarantee Fund for education programs for the professional development of property agents;
- Information by way of bulletins, memos, guidelines and advice notes to the property agents industry; and
- through the Board's Executive Officer who has presented information at industry forums and training sessions.

## Website

The Board continued to expand and develop its website after its launch in April 2017. The comprehensive portal provides information and forms to industry members, consumers and other parties such as auditors of trust accounts.

Subsequent feedback received from the industry, stakeholders, consumers and Board staff has led to changes. Some of these developments have been more nuanced (such as the relocation of information to different sections on the website) to more substantial developments including a new section titled 'Latest News', which the Board encourages all users to review first to obtain the most up-to-date news and information distributed by the Board.

The Board has strongly and actively encouraged all users to use the website to obtain all relevant forms (as these are regularly reviewed and updated) and to access policies and the revised Code of Conduct to ensure that property agents are accessing and using the most recent and relevant information.

Just over 200 enquiries have been received through the website's "contact us" portal. Queries generally related to licensing, conduct of property agents and about understanding industry practice.

All examination bookings occur through the website portal "Register for an Exam". Examination candidates complete the online form by indicating the examination they wish to undertake, whether the candidate has undertaken an examination with the Board previously, their contact details, the location they wish to sit the examination (Hobart, Launceston or Ulverstone) and whether the candidate has undertaken any form of training before sitting the examination. The candidate then "submits" the form and that data is sent via email to the [exams@propertyagentsboard.com.au](mailto:exams@propertyagentsboard.com.au) email address. A total of 389 emails were received regarding examination bookings during the reporting period.

## Telephone enquiries

Data relating to each telephone enquiry was recorded. The collection of this information serves a two - fold purpose to track the number of calls received and also to consider the themes and trends of each call. A review of this data can influence information that the Board publishes in its Information Bulletins and other circulars to improve education and awareness on certain topics as well as identifying areas which may require more formal stakeholder engagement.

The number of telephone calls has risen considerably from the previous reporting period with 5,103 calls received in 2017-2018 compared with 3,984 in 2016-2017.

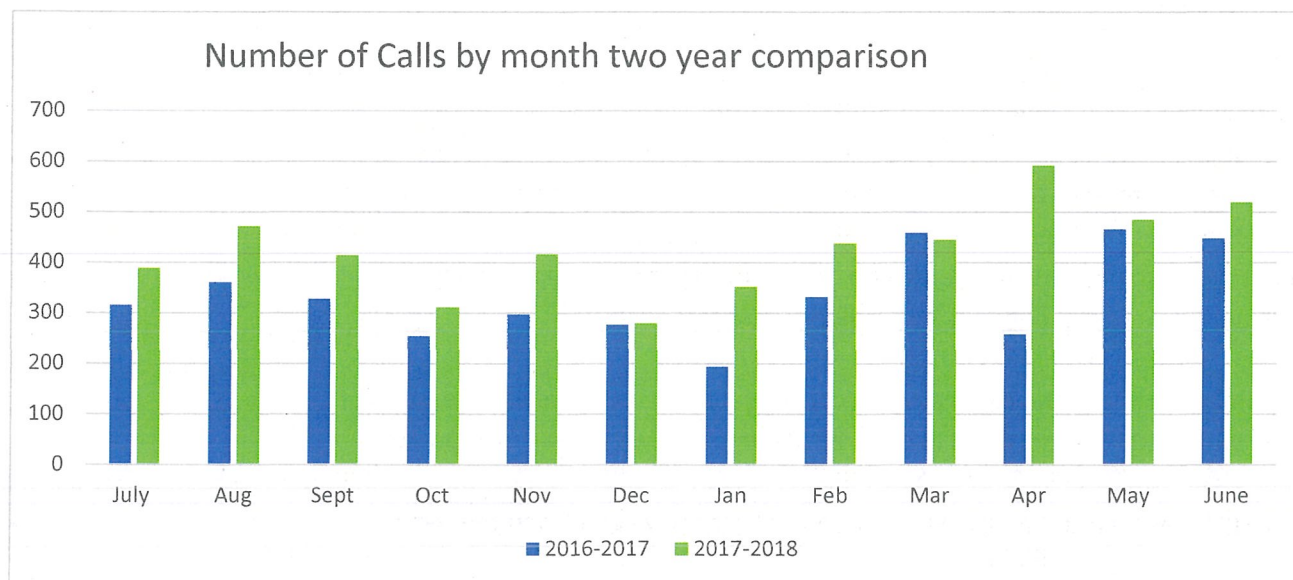
As would be expected the highest caller type is "property agent" and the most matters called about relate to licensing.

During the licensing renewal period of April, May and June there is a significant spike in the number of telephone calls received from Property Agents, being a total of 343 in April, 235 in May and 254 calls in June compared with an average of 127 calls for the other months.

Matter	% of Calls 2016-2017	% of Calls 2017-2018
Board business	11	13
Complaints	15	13
Examination	16	7
Industrial Relations	1	1
Legislation/Compliance	14	14
Mutual Recognition	3	5
Other	8	1
PC/APM (property representative)	1	1
Licence	29	42
Trust	1	1
Tribunal	1	2

Caller Type	% of Calls 2016-2017	% of Calls 2017-2018
Inspector	1	1
Landlord	2	3
Other	20	18
Potential Property Agent	20	23
Property Agent	45	45
Purchaser	3	4
Solicitor	2	1
Tenant	3	2
Vendor	3	17





## Education

The Property Agents Guarantee Fund has continued to provide to the Real Estate Institute of Tasmania (REIT), through the Board, funding for professional development and continuing education.

The REIT, as a Registered Training Organisation, provides entry level and continuing professional development training courses based on the National Training Package (CPP07 Property Services Training Package) and other accredited units of study. The REIT's program receives extensive support by way of funds from the Property Agents Guarantee Fund, with the approval of the Board and the Minister.

## Continuing Education

The continuing education program is designed to encourage compliance with the highest ethical standards and with legislative obligations under the Act, the *Property Agent and Land Transactions Regulations 2017* (the Regulations) and the Code of Conduct. The Board's website provides current information as to courses available and the Board's requirements.

The Board approved 187 sessions which were conducted during 2017-2018 and as at 30 June 2018, 502 training courses were approved on an on-going basis. These sessions are provided by 140 different training providers.

## Requirements and impact on licence renewals

In 2017-2018, the Board required all property agents to complete a minimum of 8 hours of approved continuing education.

The Board strongly encouraged all property agents to complete their continuing education requirements with the licence renewal period of April each year, however property agents did have until 30 June to complete the minimum of 8 hours. The Board determined not to issue a person with a licence until it was satisfied that the person had met the continuing education requirements or was granted an extension.

The Board granted extensions to property agents due to extenuating circumstances, and some property agents were provided with a full or partial exemption from continuing education.

With the introduction of the Act in 1 April 2017, the requirement for continuing education was expanded to include property representatives. During the renewal process in 2017-2018, approximately 1200 more property agents were required to comply with the continuing education program, which significantly increased the workload of ensuring compliance.

### *A new policy implemented and effective 1 July 2018*

During this reporting period, the Board has undertaken a comprehensive review of its Continuing Education program. The trends and comments received during the renewal process also informed the development of a framework to ensure that relevant continuing education is undertaken by all property agents.

A driving change for the review was to rebrand the continuing education program to continuing professional development (CPD) which is more consistent with other industries and regulated sectors.

The new policy aims:

- to establish clear guidance to property agents to meet the Board's CPD requirements;
- to confirm the process for approval of CPD activities;
- to confirm the process for an exemption from CPD requirements;
- to reinforce the concept that CPD is an opportunity to maintain personal and professional confidence and proficiency, rather than just a compliance challenge.

The three key changes to the Policy are summarised as follows:

1. Moving from an "hours" system to a "points" system  
A property agent will be required to complete 8 points of approved CPD activity.

The rationale for this is to simplify the process and decrease confusion. Sometimes there was confusion as to why an activity was not awarded 8 hours if attendance was for that period of time, but the time may include scheduled breaks, networking opportunities and sponsorship sessions which the Board did not include as part of approved CPD activity.

2. Requiring that at least 2 points of CPD activity must be provided by an external provider.

The term 'external provider' means that the CPD activity is delivered by a person external to the organisation.

The rationale for this concept was to create a mechanism to ensure that all property agents were provided with an opportunity to receive contemporary and different perspectives through CPD activity that may not necessarily be reflective in the property agent's own organisational culture.

3. At least 6 of the 8 points of CPD activities must be directly related (industry specific) to the property agents industry.

A CPD activity is characterised as industry specific if the CPD activity has been created or is organised for the property agents industry only.

A property agent may use up to 2 points of approved CPD activity of a more general nature (non-industry specific) that is not necessarily directly connected to the property agents industry.

An emphasis on CPD activities in industry specific areas assists property agents to be more effective and aware of industry developments, legislative changes and work practices.

The Board in launching the CPD policy (effective 1 July 2018) has sought to promote and embed a commitment to CPD within the industry which is critical in building and maintaining professionalism. It seeks to create a culture within the industry which values learning.

CPD provides a vehicle to maintain currency of technical knowledge and acts as a mechanism to ensure that each property agent expands on his or her abilities and attains skills to reflect upon his or her own professional practice. More engaged and professional property agents provide increased consumer protection and this enhances public confidence and trust in property agents.



*Pursuant to the Property Agents and Land  
Transactions Act 2016*

# **Property Agents Tribunal**

**Report to the  
Property Agents Board**

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## OVERVIEW

### Background

The Property Agents Tribunal ("the Tribunal") is established under section 104 of the Property Agents and Land Transactions Act 2016 ("the Act").

The administration of the Act is assigned to the Minister for Building and Construction ("the Minister") and the department responsible to that Minister in relation to the administration of the Act is the Department of Justice.

The Tribunal has responsibility for hearing and determining an appeal against a decision by the Property Agents Board ("the Board") to refuse to grant or renew a licence; an appeal against a Board decision relating to a conduct complaint; or a referral by the Board for a conduct disciplinary matter. In accordance with section 101(7)(c) of the Act, a conduct disciplinary matter must be referred when the Board decides that a complaint about the conduct of a property agent involves more than minor misconduct.

### Tribunal Membership

Schedule 2 ("the Schedule") to the Act has effect with respect to the membership and meetings of the Tribunal. The President of the Tribunal is appointed pursuant to Schedule 2. The current President, Mr Keyran Pitt QC, was appointed on 15 February 2017 for a period of 3 years.

Under the Schedule, there is a Panel established from which a Tribunal can be convened by the President to deal with a particular matter. The President is a member of every Tribunal convened.

The Panel consists of five persons who have had at least 5 years' experience as property agents and are appointed from a list of persons nominated by the body which the Minister is satisfied represents the views of the majority of property agents; and five persons whom the Minister considers represent the interests of consumers.

The panel members representing Property Agents are:

Mr	Peter	Bushby
Mrs	Pam	Corkhill
Mr	Rod	Parker
Mr	Sam	Woolcock
Ms	Robbie	Yeoland

The panel members representing the interest of consumers are:

Ms	Jennifer	Cranston
Mrs	Lesley (Kim)	Hambly
Mr	Robert	Hebbard
Dr	Elise	Histed
Mr	David	Paton

Pursuant to clause (1)(4) of Schedule 2, Part 2 of the Act the Board is to appoint one of its employees to be the Registrar of the Tribunal. Until 14 February 2018, Mrs Alicia Hutton fulfilled this role with



Mrs Cheryl McCulloch appointed to specific Tribunal matters if the need arose. On 15 February 2018, Mrs Cynthia Butler was appointed by the Board to be the Registrar.

## **Process**

The Tribunal's objective is to resolve disputes relating to the registration/licence and conduct of property agents. The Tribunal has a small caseload, principally comprised of:

- appeals against a decision by the Board to refuse to grant a licence;
- appeals against a decision to suspend a person's property licence;
- a referral by the Board for a conduct disciplinary matter; or an appeal of a Board decision by an aggrieved person.

### **Appeals**

The Act does not prescribe a set form for an appeal to the Tribunal by an aggrieved person, against a decision of the Board. There is no fee for lodgement of a matter to the Tribunal.

### **Referrals**

The Tribunal receives written advice from the Board of the referral of a conduct disciplinary matter. A summons containing the specified information is then served upon the property agent, pursuant to section 108 of the Act.

### **Convening the Tribunal**

The Registrar forwards the appeal or the referral of a conduct complaint to the President of the Tribunal. The President of the Tribunal then selects the two other Tribunal members from the panel. In accordance with Section 104 of the Act, one Tribunal member must be a property agent, and the other member a person who represents the interests of consumers.

### **Commencing the Tribunal Process**

The Registrar in consultation with the President organises an initial directions hearing. Directions hearings may involve the attendance of the parties in person, or may be conducted by telephone, as appropriate.

### **Procedural matters**

Section 109 of the Act provides that the hearing of a conduct must proceed with as little formality as possible, that the Tribunal is not bound by the rules of evidence, and that the Tribunal is bound by the rules of natural justice.

All Tribunal hearings take place at facilities available at the Legal Profession Board of Tasmania located at level 3, 47 Macquarie Street, Hobart.

In accordance with section 106 (3) of the Act, the Board pays the expenses of running the Tribunal.

## **Directions Hearings**

Directions hearings are normally conducted by the President of the Tribunal, and usually last between 10-30 minutes. Most parties present in person but teleconference facilities are used when appropriate.

At directions hearings, the President sets a date for the hearing and makes directions regarding the documents that must be exchanged between the parties and the timeframes for submission of those documents to the Tribunal. There may be more than one directions hearing required before the matter can proceed to a hearing, for example if jurisdictional or other rulings are required. It is normally directed that all documents and other communications with the tribunal, be also forwarded to each other party.

## Hearing

The Tribunal conducting the hearing consists of the Tribunal President and two members, with the Registrar providing administrative support. The duration of hearings varies according to the extent and complexity of matters, but is usually at least several hours.

The public is not admitted to hearings, unless the Board considers that it is in the public's interest to do so (section 109 of the Act).

## Decisions

Tribunal decisions are normally reserved. The Tribunal confers, in order to reach a decision. The Tribunal President drafts the written decision, then forwards the draft decision to the other members for review, feedback and comment. The written final decision is then provided by the Registrar to the parties.

Decisions are not published by the Tribunal. Section 112(5) of the Act states that the Board may publish Tribunal decisions in such manner as it considers will best bring it to the attention of those affected or likely to be affected by the decision. To date, the Board has not made Tribunal decisions publicly available.

## Determination by Tribunal

Action that can be taken by a Tribunal is identified at Section 110 of the Act, which provides:

- (1) If, after hearing a conduct complaint in respect of a property agent, the Tribunal finds the property agent to have been guilty of the conduct that was the subject of the complaint, it may take one or more of the following actions:
  - (a) suspend the licence of the property agent;
  - (b) cancel the licence of the property agent and prohibit the Board from licensing him or her without the approval of the Tribunal;
  - (c) prohibit the property agent from conducting all or any part of real estate agency business, property management business or general auctioneering business, as the case may be, for a period not exceeding 5 years;
  - (d) impose on the property agent a fine not exceeding an amount equivalent to 1 000 penalty units;
  - (e) prohibit the property agent from conducting all or any part of real estate agency business, property management business or general auctioneering business, as the case may be, except in accordance with conditions, restrictions or limitations specified by the Tribunal;

- (f) require the property agent to take or refrain from taking actions specified by the Tribunal;
  - (g) caution or reprimand the property agent.
- (2) If the Tribunal imposes a fine, it must specify a period within which the fine is to be paid.
- (3) The Tribunal may, in addition to any other action it takes, require a property agent carrying on real estate agency business, property management business or general auctioneering business, as the case may be, to do either or both of the following:
- (a) submit the business to periodic supervision or inspection by a person appointed by the Tribunal;
  - (b) undertake a course of training of a type specified by the Tribunal.
- (4) The Tribunal may accept an undertaking from a property agent to take or refrain from taking action specified by the Tribunal, either generally or during a period specified by the Tribunal, as an alternative to the Tribunal taking action against the property agent under subsection (1).
- (5) Nothing in this section is to be taken as depriving any person who has suffered damage, as a result of the action of a property agent, of any right the person may have to take any action against the property agent in respect of that damage.

## **Costs**

Section 111 of the Act provides that the Tribunal may make determinations with respect to costs. The Tribunal does not generally award costs in respect of a decision relating to licence matters, but may do so in conduct disciplinary matters. The Tribunal may make an order for costs against the Board when it considers it appropriate to do so.

## **Appeals**

Section 117 of the Act enables a person, including the Board, to apply under the Magistrates Court (Administrative Appeals Division) Act 2001 for a review of the decision of the Tribunal.

If a notification from the Magistrates Court is received advising of an appeal, the Tribunal will provide a letter ceding jurisdiction and usually will request that the Board be made a party to the appeal (if the Board has not previously applied to be jointed to the appeal). The Registrar then tenders all documents pertaining to the Tribunal decision to the Magistrates Court.

## **REPORT ON ACTIVITIES 2017-2018**

### **Referrals 2017-2018**

The Tribunal has received one referral in respect of conduct complaints during 2017-2018. This referral is still before the Tribunal.

### **Referrals brought forward**

Four matters have been brought forward from previous reporting periods. One of those matters has been finalised during the year. The other three matters are yet to be finalised.



The finalised matter concerned the action taken by the Tribunal in accordance with section 110 of the Act, the Property Agent having been found guilty of professional misconduct in 2016, the subject of the previous report.

The Tribunal ordered that any licence held by the Property Agent be cancelled; that the Board be prohibited from licensing the Property Agent without the prior approval of the Property Agents Tribunal; the Property Agent be prohibited from conducting all or any part of any real estate agency business for a period of 3 years; imposed a fine of \$5000; and awarded costs against the Property Agent.

## **Appeals**

There have been four (4) appeals to the Tribunal from decisions of the Board relating to conduct of property agents. All appeals were dismissed by the Tribunal and no order was made as to costs.

There has been one (1) appeal to the Tribunal from a decision of the Board not to grant a real estate agent licence. This appeal was dismissed by the Tribunal and no order was made as to costs.

There has been one (1) appeal to the Tribunal from a decision of the Board not to grant a property representative licence. This appeal was upheld by the Tribunal and the Appellant granted a property representative licence subject to a number of conditions. An application for costs was made by the Appellant against the Board; the Tribunal received submissions and made no order as to costs.

There has been one (1) appeal to the Magistrates Court from a decision of the Tribunal. The appeal is still before the Magistrates Court - Administrative Appeals Division, and will be heard de novo. The Board was joined as a party to the matter and the Tribunal President was given leave to withdraw from further proceedings.

**Keyran Pitt QC**  
President

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# Financial Statements





# **PROPERTY AGENTS BOARD**

**ABN: 93 793 560 726**

**Financial Report For The Year Ended  
30 June 2018**



# **PROPERTY AGENTS BOARD**

**ABN: 93 793 560 726**

## **Financial Report For The Year Ended 30 June 2018**

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**PROPERTY AGENTS BOARD**  
**ABN: 93 793 560 726**  
**BOARD'S REPORT**

The Board members submit the financial report of the Property Agents Board for the financial year ended 30 June 2018.

**Board Members**

The names of Board members throughout the year and at the date of this report are:

Belinda Webster reappointed (7/08/2017)  
Kim Backhouse retired (6/08/2017)  
Adrian Kelly  
Ann Cunningham  
Andrew Wright  
Liz Rodd appointed (7/08/2017)

**Principal Activities**

The principal activities of the Board during the financial year were: to maintain the Register of Property Agents in accordance with the Property Agents and Land Transactions Act 2016; to ensure acceptable standards of practice by general auctioneers, real estate agents and property managers and those employed by them; and to investigate and determine complaints against property agents.

**Significant Changes**

No significant change in the nature of these activities occurred during the year.

**Operating Result**

The profit from ordinary activities amounted to

30-Jun-18	30-Jun-17
\$	\$
136,559	(163,545)

Signed in accordance with a resolution of the Members of the Board.



*Chair*



*Member of the Board*  
**EXECUTIVE OFFICER**

Dated this 28<sup>th</sup> day of September 2018

**PROPERTY AGENTS BOARD**

**ABN: 93 793 560 726**

**STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 30 JUNE 2018**

	2018 \$	2017 \$
<b>INCOME</b>		
Operating activities:		
Application fees	53,900	23,009
Examination fees	42,349	34,143
Fines	-	7,682
Late fees collected	8,466	12,119
Miscellaneous Income	3,051	2,159
Property Agents Trust - PAB Administration	-	187,300
Property Agents Trust - Distributions	543,372	574,380
Property Agents Trust - Guarantee funding	419,000	-
Property Agents Trust - Secretarial Fees	20,000	35,000
License (Registration) fees	254,241	185,061
Less Registration fees refunded	-	(79,850)
Non-operating activities:		
Interest	10,042	11,659
	<u>1,354,421</u>	<u>992,662</u>
<b>EXPENDITURE</b>		
Accounting fees	10,800	10,530
Advertising and promotion expenses	363	-
Audit fees	2,950	2,890
Bank charges	573	435
Consultants fees	2,344	2,000
Depreciation expense:		
— immediate write off	10,643	5,734
— leasehold improvements	351	-
— office equipment	8,564	3,404
Entertainment	2,449	4,154
Examination expenses	11,901	12,868
Inspections	18,725	23,570
Insurance	2,891	5,248
Interest expense	81	66
Investigations	3,690	13,381
Legal fees	57,652	66,480
Meeting expenses - sitting fees	11,778	11,783
Moving expenses	1,472	-
Occupancy costs	45,326	48,867
Postage	4,972	6,955
Printing & stationery	12,459	11,647
Provision for employee leave benefits	805	9,480
Property Agents Trust Distributions to REIT - Training & Seminars	123,403	130,088
Property Agents Trust Distributions to REIT - Research & Training Salaries	353,717	348,495
Property Agents Trust Distributions to REIT - Training Material Rewrite	13,552	46,935
Property Agents Trust Distributions to REIT - Management Program	52,700	48,862
Repairs/maintenance/equipment	8,670	1,560
Salaries - Ordinary	368,881	258,232
Salaries - Board Chairman	12,539	21,079
Security Shredding	311	302
Subscriptions	1,635	1,545
Sundry expenses	151	2,055
Superannuation	39,602	29,256
Telephone	11,855	17,053
Travel, accom & conference	2,629	1,916
Tribunal expenses	17,428	9,337
	<u>1,217,862</u>	<u>1,156,207</u>
Net surplus/(deficit) for the year	136,559	(163,545)
Other comprehensive income	-	-
Total comprehensive income	<u>136,559</u>	<u>(163,545)</u>



**PROPERTY AGENTS BOARD**  
**ABN: 93 793 560 726**  
**STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2018**

	Note	2018 \$	2017 \$
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash on hand	3	331,831	172,346
Accounts receivable and other debtors	4	177,382	178,704
Other financial assets	6	450,000	450,000
Other current assets	5	6,160	6,160
<b>TOTAL CURRENT ASSETS</b>		<u>965,373</u>	<u>807,210</u>
<b>NON-CURRENT ASSETS</b>			
Property, plant and equipment	7	19,298	24,332
<b>TOTAL NON-CURRENT ASSETS</b>		<u>19,298</u>	<u>24,332</u>
<b>TOTAL ASSETS</b>		<u>984,671</u>	<u>831,542</u>
<b>LIABILITIES</b>			
<b>CURRENT LIABILITIES</b>			
Accounts payable and other payables	8	175,131	185,816
Current tax liabilities	10	23,464	6,248
License fees paid in advance	11	223,711	214,476
<b>TOTAL CURRENT LIABILITIES</b>		<u>422,306</u>	<u>406,540</u>
<b>NON-CURRENT LIABILITIES</b>			
Provisions	9	63,442	62,638
<b>TOTAL NON-CURRENT LIABILITIES</b>		<u>63,442</u>	<u>62,638</u>
<b>TOTAL LIABILITIES</b>		<u>485,748</u>	<u>469,178</u>
<b>NET ASSETS</b>		<u>498,923</u>	<u>362,364</u>
<b>EQUITY</b>			
Accumulated surpluses		498,923	362,364
<b>TOTAL EQUITY</b>		<u>498,923</u>	<u>362,364</u>

The accompanying notes form part of these financial statements.

**PROPERTY AGENTS BOARD**  
**ABN: 93 793 560 726**  
**STATEMENT OF CHANGES IN EQUITY FOR THE YEAR ENDED 30 JUNE 2018**

	Retained Surplus	Total
	\$	\$
<b>Balance at 1 July 2016</b>	525,909	525,909
Net surplus for the year	(163,545)	(163,545)
<b>Balance at 30 June 2017</b>	<u>362,364</u>	<u>362,364</u>
<b>Balance as at 1 July 2017</b>	362,364	362,364
Net surplus for the year	136,559	136,559
<b>Balance at 30 June 2018</b>	<u><u>498,923</u></u>	<u><u>498,923</u></u>

The accompanying notes form part of these financial statements.

**PROPERTY AGENTS BOARD**  
**ABN: 93 793 560 726**  
**STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2018**

	Note	2018 \$	2017 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Receipts from fees and licenses		366,441	474,579
Receipts from Property Agents Trust		1,080,609	837,081
Payments to suppliers and employees		(695,683)	(670,696)
Interest received		10,042	11,659
Interest paid		(81)	(66)
Other receipts		7,410	2,300
Distributions of Property Agents Trust receipts		(599,834)	(585,293)
Net cash flow from GST		(5,538)	(2,594)
Net cash provided by/(used in) operating activities	14	<u>163,366</u>	<u>66,970</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Purchase of property, plant and equipment		(3,881)	(21,000)
Net cash provided by/(used in) investing activities		<u>(3,881)</u>	<u>(21,000)</u>
Net increase/(decrease) in cash held		159,485	45,970
Cash and cash equivalents at beginning of financial year		172,346	126,376
Cash and cash equivalents at end of financial year	3	<u><u>331,831</u></u>	<u><u>172,346</u></u>

The accompanying notes form part of these financial statements.

**PROPERTY AGENTS BOARD**  
**ABN: 93 793 560 726**  
**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2018**

**Note 1      Summary of Significant Accounting Policies**

This financial report is a special purpose financial report prepared in order to satisfy the financial reporting requirements of the Property Agents and Land Transactions Act 2016. The members have determined that the Board is not a reporting entity for financial reporting purposes.

The financial report has been prepared on a going concern basis.

The financial report has been prepared on an accruals basis and is based on historical costs and does not take into account changing money values or, except where specifically stated, current valuations of non-current assets.

In addition to complying with the financial reporting requirements of the Property Agents and Land Transactions Act 2016, this special purpose financial report complies with Australian Accounting Standards and Interpretations except for AASB 7 Financial Instruments: Disclosure; AASB 132 Financial Instruments: Presentation and AASB 139 Recognition and Measurement.

The following significant accounting policies, which are consistent with the previous period unless otherwise stated, have been adopted in the preparation of this financial report.

**(a)      Comparative figures**

Where appropriate, comparative figures have been adjusted to conform to changes in presentation for the current financial year.

**(b)      Property, Plant and Equipment (PPE)**

Leasehold improvements and office equipment are carried at cost less, where applicable, any accumulated depreciation.

The depreciable amount of all PPE is depreciated over the useful lives of the assets to the Board commencing from the time the asset is held ready for use.

Leasehold improvements are amortised over the shorter of either the unexpired period of the lease or the estimated useful lives of the improvements.

**Depreciation Rates**

Plant and Equipment	10%-33%
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**(c)      Employee Benefits**

Provision is made for the Board's liability for employee benefits arising from services rendered by employees to the end of the reporting period. Employee benefits have been measured at the amounts expected to be paid when the liability is settled.

**(d)      Provisions**

Provisions are recognised when the Board has a legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will result and that outflow can be reasonably measured. Provisions are measured at the best estimate of the amounts required to settle the obligation at the end of the reporting period.

**(e)      Cash and Cash Equivalents**

Cash and cash equivalents include cash on hand, deposits held at call with banks, and other short-term highly liquid investments with original maturities of three months or less.

**(f)      Revenue and Other Income**

License fees have been collected in advance.

Interest revenue is recognised over the period for which funds are invested.

Revenue from the provision of services is recognised upon delivery of the service to the customers.

Property Agents Trust Distribution income is recognised when the services, which the Board is contractually obliged to provide, are delivered (refer Note 1 (j)).

All revenue is stated net of the amount of goods and services tax (GST).

**(g)      Income Tax**

No provision for income tax has been raised as the Board is exempt from income tax under Div 50 of the Income Tax Assessment Act 1997.



**PROPERTY AGENTS BOARD**  
**ABN: 93 793 560 726**  
**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2018**

**(h) Goods and Services Tax (GST)**

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Tax Office. In these circumstances, the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense. Receivables and payables in the assets and liabilities statement are shown inclusive of GST.

**(i) Trade and Other Payables**

Cash on hand includes cash on hand, deposits held at call with banks, other short-term highly liquid investments with original maturities of three months or less, and bank overdrafts.

**(j) Unspent Property Agents Trust Distributions**

It is the policy of the Board to treat Property Agents Trust distributions as unexpended funds liabilities in the Balance Sheet where the Board is contractually obliged to provide services in a subsequent financial period to when the grant is received.

Accounts receivable are initially recognised at fair value and subsequently measured at amortised cost using the effective interest method, less any provision for impairment. Refer to Note 1(f) for further discussion on the determination of impairment losses.

**(k) Critical Accounting Estimates and Judgments**

The Board evaluations, estimates and judgments incorporated into the financial report are based on historical knowledge and best available current information. Estimates assume a reasonable expectation of future events and are based on current trends and economic data, obtained both externally and within the Board.

**Note 2 Key Management Personnel compensation**

The aggregate compensation to key management personnel of the Board is set out below:

	Consolidated	
	2018	2017
	\$	\$
Short-term employee benefits	136,436	132,955
Post-employment benefits	12,867	12,505
Other long-term benefits	(3,510)	6,314
Adjustments	(4,017)	0
	<b>141,776</b>	<b>151,774</b>

**(a) Executive Remuneration**

The following tables disclose the remuneration details for each person that acted as a senior executive during the current and previous financial years:

2018				
Executive Remuneration	Salary <sup>1</sup>	Superannuation <sup>2</sup>	Other non-monetary benefits <sup>3</sup>	Total 2018
	\$	\$	\$	\$
Mrs Alicia Hutton - Executive Officer	119,790	11,286	(3,510)	127,566
Mr John Upcher - Chair*	(4,017)	-	-	(4,017)
Mrs Ann Cunningham - Chair	16,646	1,581	-	18,227
<b>Total</b>	<b>132,419</b>	<b>12,867</b>	<b>(3,510)</b>	<b>141,776</b>

\* Repayment of salary overpaid in 2016-2017 reporting period.

**PROPERTY AGENTS BOARD**  
**ABN: 93 793 560 726**  
**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2018**

2017				
Executive Remuneration	Salary <sup>1</sup>	Superannuation <sup>2</sup>	Other non-monetary benefits <sup>3</sup>	Total 2017
	\$	\$	\$	\$
Mrs Alicia Hutton - Executive Officer	111,876	10,502	6,314	128,692
Mr John Upcher - Chair	14,252	1,354	-	15,606
Mrs Ann Cunningham - Chair	6,827	649	-	7,476
<b>Total</b>	<b>132,955</b>	<b>12,505</b>	<b>6,314</b>	<b>151,774</b>

<sup>1</sup> Gross Salary includes all forms of consideration paid and payable for services rendered, compensated absences during the period and salary sacrifice amounts.

<sup>2</sup> Superannuation means the contribution to the superannuation fund of the individual.

<sup>3</sup> Other non-monetary benefits include annual and long service leave movements inclusive of super guarantee.

**(b) Remuneration Principles**

***Executive Remuneration***

The employment terms and conditions of the Executive Officer are contained in an individual employment contract which prescribes total remuneration, superannuation, annual and long service leave and salary sacrifice provisions.

The performance of the Executive Officer, is reviewed annually against the position description this review may include a review of her remuneration package otherwise it increases by CPI for the preceding 12 months (for Hobart (All Groups)) on 16 July each year.

**Note 3 Cash on Hand**

	2018	2017
	\$	\$
Cash at bank - unrestricted	331,461	171,976
Petty Cash	170	170
Exam float	200	200
	<u>331,831</u>	<u>172,346</u>

**Reconciliation of cash**

Cash on hand at the end of the financial year as shown in the statement of cash flows is reconciled to items in the statement of financial position as follows:

	331,831	172,346
	<u>331,831</u>	<u>172,346</u>

**Note 4 Accounts Receivable and Other Debtors**

	2018	2017
	\$	\$
Other debtors	177,382	178,704
	<u>177,382</u>	<u>178,704</u>

**Note 5 Other Current Assets**

	2018	2017
	\$	\$
Prepaid rent	6,160	6,160
	<u>6,160</u>	<u>6,160</u>

**PROPERTY AGENTS BOARD**  
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**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2018**

**Note 6 Other Financial Assets**

	2018	2017
	\$	\$
Investment Accounts	450,000	450,000
	<u>450,000</u>	<u>450,000</u>

**Note 7 Property, Plant and Equipment**

	2018	2017
	\$	\$
Office equipment:		
At cost	42,951	42,951
Accumulated depreciation	<u>(27,183)</u>	<u>(18,619)</u>
	<u>15,768</u>	<u>24,332</u>
Leasehold improvements:		
At cost	3,881	-
Accumulated depreciation	<u>(351)</u>	<u>-</u>
	<u>3,530</u>	<u>-</u>
Total property, plant and equipment	<u>19,298</u>	<u>24,332</u>

**Movements in carrying amounts**

Movement in carrying amounts for each class of property, plant and equipment between the beginning and the end of the current financial year:

	Leasehold Improve- ments \$	Plant and Equipment \$	Total \$
Balance at 1 July 2016		6,736	6,736
Additions		21,000	21,000
Disposals			-
Depreciation expense		<u>(3,404)</u>	<u>(3,404)</u>
Carrying amount at 30 June 2017	-	<u>24,332</u>	<u>24,332</u>
Additions	3,881	-	3,881
Disposals			-
Depreciation expense	<u>(351)</u>	<u>(8,564)</u>	<u>(8,915)</u>
Carrying amount at 30 June 2018	<u>3,530</u>	<u>15,768</u>	<u>19,298</u>

**Note 8 Accounts Payable and Other Payables**

	2018	2017
	\$	\$
Accounts payable	174,990	185,548
Superannuation payable	141	268
	<u>175,131</u>	<u>185,816</u>

**PROPERTY AGENTS BOARD**  
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**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2018**

**Note 9 Provisions**

	2018 \$	2017 \$
<b>CURRENT</b>		
Employee provisions - Annual leave entitlements	26,836	18,095
Superannuation on annual leave	2,549	1,719
	<u>29,385</u>	<u>19,814</u>
<b>NON-CURRENT</b>		
Employee provisions - Long service leave	30,696	38,702
Super on long service leave	2,916	3,677
Unclaimed monies	445	445
	<u>34,057</u>	<u>42,824</u>
<b>Total provisions</b>	<u><u>63,442</u></u>	<u><u>62,638</u></u>

**Note 10 Current Tax Liabilities**

	2018 \$	2017 \$
GST payable	50,293	36,007
GST refundable	(34,379)	(39,546)
GST adjustments	(3)	44
ATO Integrated Client Account	(0)	(733)
	<u>15,911</u>	<u>(4,228)</u>
 <b>PAYG Withholding Payable</b>	 <u>7,553</u>	 <u>10,476</u>
	<u>7,553</u>	<u>10,476</u>
 <b>Total tax liabilities</b>	 <u><u>23,464</u></u>	 <u><u>6,248</u></u>

**Note 11 Income in Advance**

License fee income is recognised in the period to which the licences relate.

**Note 12 Events after the Reporting Period**

There are no events after balance date affecting these financial statements to be disclosed.

**Note 13 Related Party Transactions**

Transactions between related parties are on normal commercial terms and conditions no more favourable than those available to other parties unless otherwise stated.

Transactions with related parties:

**a. Provides services to related parties**

The Board provides secretarial services to the Property Agents Trust. The fees received from each are separately disclosed on the face of the Statement of Comprehensive Income.

**b. Distributions made to related parties**

The Board manages the distribution of Property Agents Trust funds to the Real Estate Institute of Tasmania for the provision of education and training as approved by the Minister and Board each financial year. Distributions are based on actual claims received as evidence of services provided.



**PROPERTY AGENTS BOARD**  
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**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2018**

**Note 14 Cash Flow Information**

	2018	2017
	\$	\$
<b>Reconciliation of cash flows from operating activities with net current year surplus</b>		
Net current year surplus	136,559	(163,545)
Cash flows excluded from current year surplus		
Non-cash flows in current year surplus:		
— Depreciation expense	8,915	3,404
<b>Changes in assets and liabilities</b>		
— (Increase)/decrease in accounts receivable and other debtors	1,322	(41,396)
— Increase/(decrease) in accounts payable and other payables	(10,686)	40,291
— Increase/(decrease) in revenue received in advance	9,236	214,476
— Increase/(decrease) in current tax liabilities	17,216	4,259
— Increase/(decrease) in employee provisions	804	9,481
	<u>163,366</u>	<u>66,970</u>

**Note 15 Association Details**

The registered office of the association is:  
Property Agents Board  
Level 1, 15 Victoria Street  
HOBART TAS 7000

**PROPERTY AGENTS BOARD**  
**ABN: 93 793 560 726**  
**STATEMENT BY MEMBERS OF THE BOARD**

The Board has determined that the organisation is not a reporting entity and that this special purpose financial report should be prepared in accordance with the accounting policies outlined in Note 1 to the financial statements.

In the opinion of the Board the Financial Statements:

1. Presents fairly the financial position of Property Agents Board as at 30 June 2018 and its performance for the year ended on that date.
2. Complies with Australian Accounting Standards and Interpretations except for AASB 7 Financial Instruments: Disclosure; AASB 124 Related Parties; AASB 132 Financial Instruments: Presentation; AASB 139 Recognition and Measurement.
3. At the date of this statement, there are reasonable grounds to believe that the organisation will be able to pay its debts as and when they fall due.

This statement is made in accordance with a resolution of the Board and is signed for and on behalf of the Board by:

Signed: 

Dated: 28/9/2018

Signed: 

Dated: 28/9/2018

**Independent Auditor's Report**

**To Members of the Tasmanian Parliament**

**Property Agents Board**

**Financial Report for the Year Ended 30 June 2018**

**Report on the Financial Report**

**Opinion**

I have audited the accompanying financial report, being a special purpose financial report of Property Agents Board (the Board), which comprises the statement of financial position as at 30 June 2018 and statements of comprehensive income, changes in equity and cash flows for the year then ended, notes to the financial statements, including a summary of significant accounting policies and the statement of compliance by the Members of the Board.

In my opinion, the financial report presents fairly, in all material respects, the financial position of the Board as at 30 June 2018 and its financial performance and its cash flows for the year then ended in accordance with the financial reporting requirements of the *Property Agents and Land Transactions Act 2016*.

**Basis for Opinion**

I conducted the audit in accordance with Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Report* section of my report. I am independent of the Board in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (the Code) that are relevant to my audit of the financial report in Australia. I have also fulfilled my other ethical responsibilities in accordance with the Code.

The *Audit Act 2008* further promotes the independence of the Auditor-General. The Auditor-General is the auditor of all Tasmanian public sector entities and can only be removed by Parliament. The Auditor-General may conduct an audit in any way considered appropriate and is not subject to direction by any person about the way in which audit powers are to be exercised. The Auditor-General has for the purposes of conducting an audit, access to all documents and property and can report to Parliament matters which in the Auditor-General's opinion are significant.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

...1 of 3

To provide independent assurance to the Parliament and Community on the performance and accountability of the Tasmanian Public sector.  
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## **Emphasis of Matter - Basis of Accounting**

I draw attention to Note 1 to the financial report, which describes the basis of accounting. The financial report has been prepared to assist the Board to meet the financial reporting requirements of the *Property Agents and Land Transactions Act 2016*. As a result, the financial report may not be suitable for another purpose. My opinion is not modified in respect of this matter.

## **Responsibilities of the Members for the Financial Report**

The Members are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards, and the financial reporting requirements of the *Property Agents and Land Transactions Act 2016* and for such internal control as they determine is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

In preparing the financial report, the Members are responsible for assessing the Board's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Board is to be dissolved by an Act of Parliament, or the Members intend to cease operations, or have no realistic alternative but to do so.

## **Auditor's Responsibilities for the Audit of the Financial Report**

My objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

As part of an audit in accordance with the Australian Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Board's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Members.

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- Conclude on the appropriateness of the Members' use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Board's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify my opinion. My conclusion is based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Board to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Members regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.



James Hay  
**Senior Manager Financial Audit**  
**Delegate of the Auditor-General**

**Tasmanian Audit Office**

Hobart  
28 September 2018

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