



Property Agents Board

Annual Report 2021-2022

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28 October 2022

Hon Elise Archer MP
Minister for Building and Construction
GPO Box 123
Hobart Tas 7001

Dear Minister

Property Agents Board - Annual Report 2021-2022

I submit for your information and presentation to Parliament the Annual Report of the Property Agents Board for the financial year ended 30 June 2022, in accordance with Section 14 of the *Property Agents and Land Transactions Act 2016*.

Yours faithfully

A handwritten signature in blue ink, appearing to be "Craig Mackie", enclosed in a light blue rectangular box.

Craig Mackie
Chair
Property Agents Board

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Forward by Chair

I am honoured to be appointed as Chair of the Property Agents Board and pleased to present the Board's annual report for the financial period ending 30 June 2022.

The systems and processes implemented by the Board and its staff demonstrate a strong commitment to the property industry in Tasmanian and in performing its statutory functions.

There were 322 examinations conducted around the state during the year which contributed to some of the 226 new property representative licences being granted during the year. I note that during the reporting period there were a total of 304 new grants which increased the number of licensed property agents in Tasmania as at 30 June 2022 to be 2,217.

The Board received more conduct complaints than in previous reporting periods and external resources were engaged to assist with complaint management, which is an area that will continue to be focused on.

Guidance for appropriate industry standards; continuing professional development and overall conduct has been a focus in the past twelve months and I am committed to continue to provide these types of support as well as exploring how these areas can be expanded.

During the next twelve months there will be a focus on leadership and strategic direction for the organisation to ensure that the Board's functions are maintained together with ensuring adequate support for an ongoing positive collaborative working environment.

I wish to acknowledge and thank the outgoing Chair, Ann Cunningham for her work with the Board and I look forward to working with the staff and Board members to continue this important work.

A handwritten signature in blue ink, appearing to be 'Craig Mackie', with a stylized flourish at the end.

Craig Mackie
Chair

Report of the Executive Officer

2021-2022 has been an exciting year with the launch of the Board's new online portal which allows licenced property agents to update personal details, lodge renewal declarations as well as report completion of continuing professional development.

There have been legislative changes during the year with the introduction of the 2022 Code of Conduct – Version 4 which commenced on 1 January 2022 as well as some minor amendments to the *Property Agents and Land Transactions Act 2016* and the *Property Agents and Land Transaction Regulations 2017* coming into effect on 4 May 2022.

The Board continued its valuable work in developing its collection of case studies and advice notes in the period which are circulated to industry and published on the Board's website and conducted a series of state-wide presentations prior to the launch of the new Code of Conduct as well as ten 1 hour online sessions on various topics.

The last 12 months has shown a marked increase in complaints being filed with the Board. The Board's disciplinary work also increased in the period, with several matters of a more serious nature being referred to the Tribunal. The Board commenced publication of unabridged Tribunal Decisions which is acts as an educative tool as to the types of conduct which are considered more serious.

As in previous years I have participated in National Regulator meetings which provides for national discussion and information sharing together allowing a focus of emerging technologies on the regulatory space as well as discussion on the implementation of Automatic Mutual Recognition.

I take this opportunity to gratefully acknowledge the Minister, the Honourable Elise Archer, for supporting the Board's funding for the period, which has underpinned the Board's ability to fulfil its statutory obligations.

Finally, it is with great pride and pleasure that I thank all of the staff of the Board whose diligence, professionalism and energy have again been exceptional this year. I also thank the Board for their guidance, patience and sound decisions over the past 12 months.



Alicia Hutton
Executive Officer



Property Agents Board

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.

The Board acts as the supervisory authority for property agents in Tasmania.

Statutory Authority

The Property Agents Board is an independent statutory authority continued in existence under 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 appointed by the Governor.

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.

Two members must be property agents who have at least five years' experience as property agents. Two members of the Board must not be property agents.

Chair

Ann Cunningham

Mrs Cunningham was reappointed Chair of the Board commencing on 22 June 2020 for her second 3-year period. Mrs Cunningham is an experienced legal practitioner, tribunal and board member including as chairperson. She is a Fellow of the Australian Institute of Company Directors, a Commissioner with the Tasmanian Planning Commission and a member of the Theatre Royal Management Board.

Mrs Cunningham is a former Senior Member of the Commonwealth Administrative Appeals Tribunal, Member of the Resource Management and Planning Appeals Tribunal and State Divisional Councillor of the Australian Institute of Company Directors.

Mrs Cunningham had been Chair of the Board since February 2017 and resigned from the position finishing on 30 June 2022.

Craig Mackie

Mr Mackie was appointed as Chair of the Board for a 3-year period commencing 1 July 2022.

Mr Craig Mackie is an experienced legal practitioner who has been in private practice in Tasmania for over 25 years.

He sits on numerous boards including the board of the Tasmania Law Reform Institute and is a presiding member of the Tasmanian Legal Profession's Disciplinary Tribunal.

Property Agent Board Members

Adrian Kelly

Mr 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 and former President of the Real Estate Institute of Tasmania and is a former President of the Real Estate Institute of Australia.

Mr Kelly is the nominee of the body representing the property agents industry, the Real Estate Institute of Tasmania (REIT) and was re-appointed as a property agent member on 1 June 2020 for his third 3-year term.

Mr Kelly has been a member of the Board since October 2013.

Mr Andrew Wright

Mr Andrew Wright has held a General Auctioneer's Licence in Tasmania since 1986 and is the Proprietor of his own auction and 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 reappointed to the Board on 1 June 2020 for his second 3-year term. Mr Wright has been a member of the Board since February 2017 and is a nominee of the Minister.

Non-Property Agent Board Members

Ms Belinda Webster

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 a Fellow of the Australian Institute of Company Directors and an experienced Board member. She is currently Deputy President of Cancer Council Tasmania and a member of the Glenorchy City Council Audit Panel; the Tasmanian Board of the Australian Nursing and Midwifery Board; and the Reaccreditation Committee of the Institute of Land Surveyors Tasmania.

Ms Webster was re-appointed to the Board on 13 August 2019 for a 3-year term. Ms Webster has been a member of the Board since July 2011 and is a nominee of the Minister.

Ms Liz Rodd

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 prior to relocating to Tasmania to work for Hydro Tasmania as Head of Supply Chain.

Ms Rodd currently works for Mona as Director of People and Procurement and is a member and graduate of the Australian Institute of Company Directors.

Ms Rodd was reappointed to the Board on 1 June 2020 for her second 3-year term. Ms Rodd has been a member of the Board since August 2017 and is a nominee of the Minister.

Board's Functions

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

- to administer the licensing system for property agents established by this Act;
- to maintain the Register;
- 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;
- to ensure that people do not act as property agents unless they are permitted to do so under this Act;
- to develop and ensure compliance with a Code of Conduct for property agents;
- to receive, investigate and determine complaints against property agents;
- to provide support in the resolution of disputes relating to the conduct of property agents;
- to supervise the trust accounts of property agents;
- to advise property agents on appropriate standards of conduct;
- to monitor, identify and report to the Minister trends and issues that emerge within the property agents industry;
- to perform educational functions for the purposes of this Act;

- 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;
- to perform any other function imposed on the Board by this or any other Act;
- such other functions as may be prescribed.

Board's Powers

The Board has power to do all things necessary or convenient to be done in connection with the performance of its functions.

Board Meetings

The Board met 11 times during the year. Mrs Cunningham, Ms Webster, Ms Rodd and Mr Kelly, attended all 11 meetings. Mr Wright was absent from the meeting held on 16 February 2022 due to illness but attended all other meetings.

The Board on occasions requires further information before it can form its decision at the scheduled meeting or makes a decision outside the scheduled meeting. When this occurs, the Board makes its decision via an exchange of emails which is then confirmed. There were 4 such occasions at which all members were present.

The procedure in which a meeting is conducted is set out in Schedule 1 of the Act. A meeting of the Board is not open to the public, but the Board may allow a person to attend a meeting if it is satisfied that it is appropriate to do so.

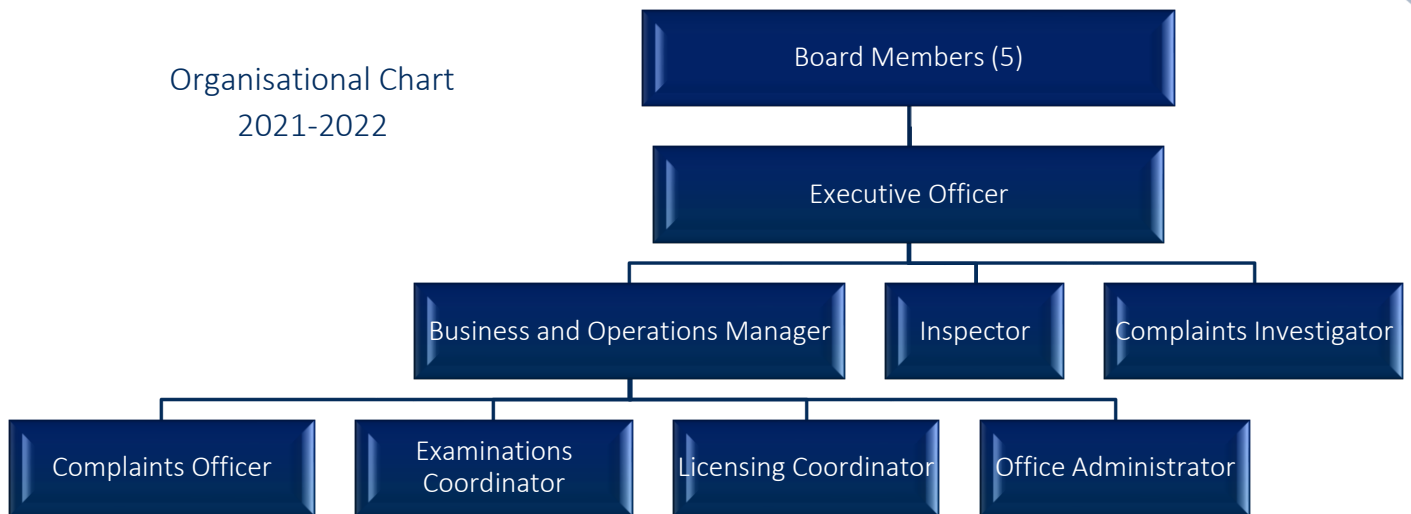
The Board is to determine the way in which its decisions are to be published and it may determine that all or any part of a decision is not to be published where to do so might reveal privileged information or information communicated to the Board in confidence or information that concerns a person's personal affairs, finances or business arrangements.

Organisational Structure 2021-2022

The Property Agents Board is supported by a team of six office staff:

- a Business and Operations Manager;
- a Complaints Officer (part-time);
- an Examination Coordinator (vacant at 30 June 2022);
- the Executive Officer;
- a Licensing Coordinator (part-time); and
- an Office Administrator.

Organisational Chart
2021-2022



The Board engages a Board Inspector on a casual basis to conduct inspections of property agent's trust accounts.

A Complaints investigator is also engaged on a casual basis to assist with complaint handling.

Funding of the Board

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

The primary source of income for the Board is through licence fees. A licence fee increase was implemented during the reporting period. Further information regarding this increase is available later in this report.

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

The Board's accounts are audited by the Tasmanian Audit Office each year.

Licensing and Registers

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

to maintain the Register;

to ensure that people do not act as property agents unless they are permitted to do so under this Act.

Application for Licence

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 processes applications in accordance with the Act.

In Tasmania there are four different licence types available. Real Estate Agents, Property Managers, General Auctioneers and Property Representatives.

The licenses for Real Estate Agents, Property Managers and General Auctioneers can be divided into conducting business or not conducting business (known as individuals). Property Representatives cannot conduct business.

A complete application form includes the application form together with the appropriate accompanying documents and payment of fees. Upon receiving an application for licence a preliminary review is undertaken. This preliminary review provides to the applicant, confirmation that the application has been received, it advises if there are any missing or incorrect documents and it advises when the application will be assessed (the assessment date).

The assessment date is designed to provide certainty to the applicant of when the license will be granted or refused. The service charter in processing time for a complete application is no longer than 15 working days.

On the assessment date the licence applicant will receive notification of whether the licence has been granted or refused.

If the licence is granted the applicant will receive a copy of their licence together with other relevant information.

If the licence is refused the applicant will receive information regarding the grounds that the application has been refused.

All licences are granted by the Board for the period 1 July (or from the date of approval) to 30 June and eligible licence holders can apply for the licence to be renewed each year.

Licence Renewals

All licences expire on 30 June each year. In April each year, eligible property agents are invited to renew their licence through a renewal process. A total of 2,217 property agents were invited to renew their licence in 2022.

The renewal process involves making a declaration as to the person's suitability to remain licensed; compliance with any licence condition (including CPD) and payment of a licence fee.

Purpose-Built Proprietary System

A purpose-built proprietary system (the Licensing System) is used to record the required information for licence holders and to assemble the Board's Register. The Licensing System stores information required for the licence holder and mirrors the legislative provisions in that the Licensing System is divided into those entities conducting business and those individuals who hold a licence but do not conduct business.

The Register of Property Agents

The Board is required to publish the Register on its website. For ease of reference the published Register is divided into those property agents conducting business and those property agents who do not conduct business.

The Register of Property Agents conducting business provides details of the licensed name, the name under which the business carries on business, the business' authorised place of business, the type of licence, when the licence expires and whether the licence is currently valid or not.

The Register of Individual Property Agents is a register of those people who are licensed as property agents but are not licensed to conduct business. The Board's Register provides the licence holder's name, and if the person is employed by a property agent conducting business it will provide that business name. If the person is not currently employed these details will be blank. The Licensing System is used to collate the Registers.

Licence Statistics 2021-2022

New Grants	2021-2022
Real Estate Agent carrying on business (P1D1)	27
Real Estate Agent individual (P1D2)	46
Property Manager carrying on business (P2D1)	1
Property Manager individual (P2D2)	3
General Auctioneer carrying on business (P3D1)	1
General Auctioneer individual (P3D2)	0
Property Representative (P4)	226
Total	304

Renewals	30 June 2022
Real Estate Agent carrying on business (P1D1)	216
Real Estate Agent individual (P1D2)	419
Property Manager carrying on business (P2D1)	9
Property Manager individual (P2D2)	5
General Auctioneer carrying on business (P3D1)	16
General Auctioneer individual (P3D2)	15
Property Representative (P4)	1098
Total	1778

Online Portal

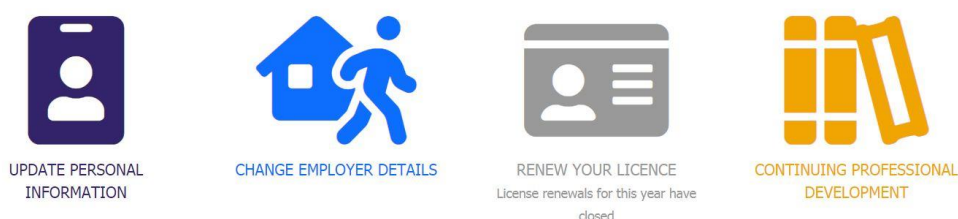
During the reporting period the Board launched its online portal which initially enabled all licensed property agents to change their personal contact details; such as name; address; email; declare the CPD undertaken to satisfy the licence condition; and make a declaration as to being fit and proper to retain a property agent licence.

Property Agents were required to enter their licence type; licence number and mobile phone. If the mobile phone number matched that already entered in the Licensing System a SMS code for authentication purposes would be sent to the property agent's mobile phone and once entered would provide access to their own licence details and provide options to continue.

Update Details	Use this function to update your personal information.
Licence Renewal	Use this function to renew your licence.
Continuing Professional Development (CPD)	Use this function to provide your completed CPD.
Logout	Logout of the Portal.

Further functionality was added to the online portal in a second release which included the property agent being able to change employer or remove employer details and more options to view previously declared CPD.

The licence renewal period is locked except for during the period of April to June.



Once a licence record has been amended or new information provided by a property agent through the online portal, that information is available for review by Board staff in an Administration Portal.

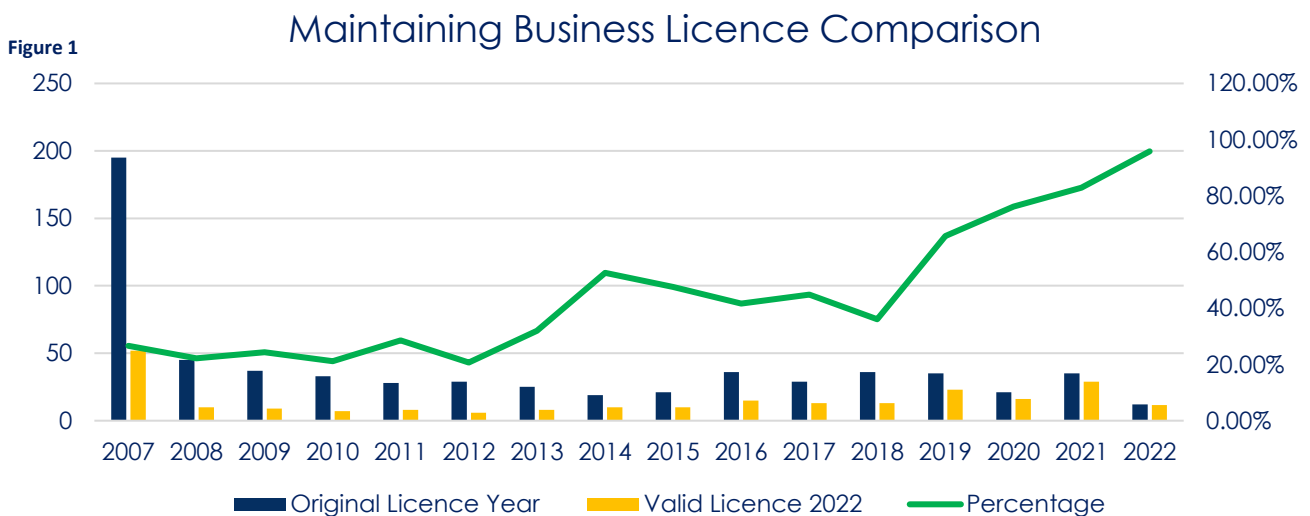
The administration portal lists the change made in each of the categories. It provides details of the receipt number, the licence holder and the date submitted. There is also a status indicator for staff to know whether the new information is pending review; has been processed and included into the Licensing System; or has been discarded. Discarded information would relate to duplicated information or information submitted that required further verification before it can be entered into the Licensing System.

Overview Property Agents Conducting Business

The graph at figure 1 shows the year that the licence was granted compared to those businesses continuing to hold a valid licence in 2022-2023.

The Original Licence year is the number of new licenses granted in that year; the Valid Licence 2022 indicates that business remains licensed and the green line shows the percentage of businesses that have remain licensed since the original licence year.

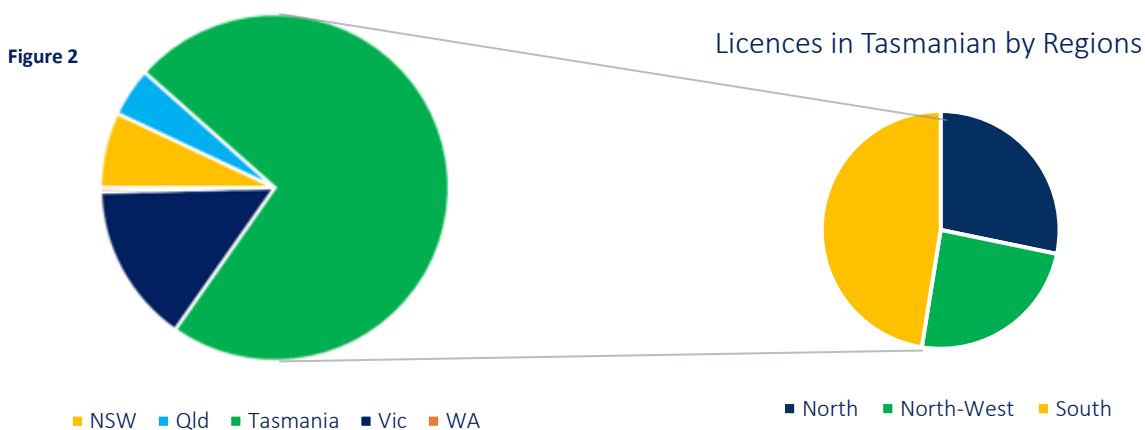
The high number in 2007 relates to the businesses in existence at the commencement of the *Property Agents and Land Transactions Act 2005* (the Repealed Act) from the *Auctioneers and Real Estate Agents Act 1991*.



There is an average of 31% of property agents conducting business that have remained licensed since 2007. This figure increases to 67% remaining licensed since 2017. There was a dip in 2018. A review of these licences indicates all but one was based interstate.

Figure 2 shows the licence location by location of the authorised place of business with Tasmania divided into its three regions.

Licence Location by State 2022

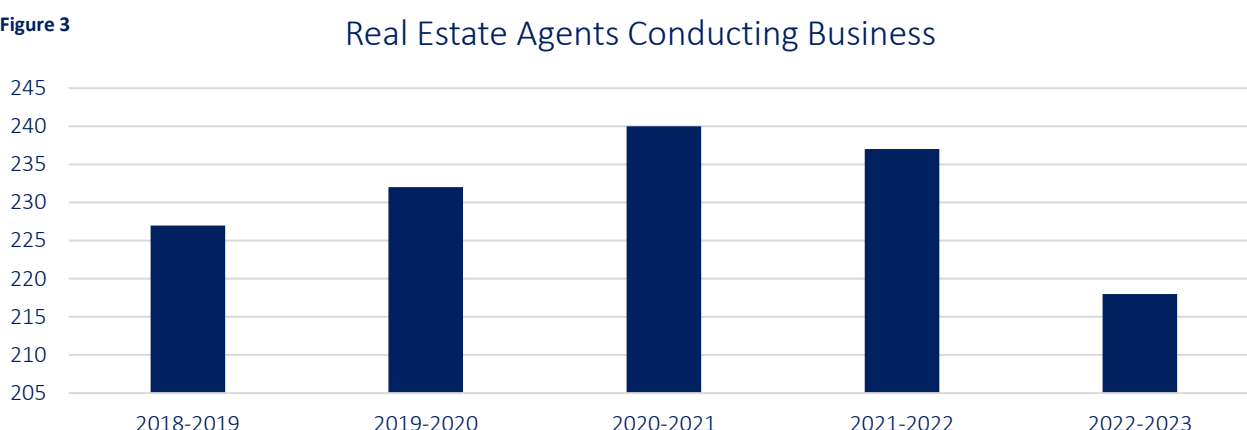


Overview - Real Estate Agents Conducting Business

The graph below at figure 3 shows the number of real estate agents conducting business (named in Part 1 Division 1 of the Register) for the past 5 years. A real estate agent conducting business can be a company or an individual (sole trader). If the business is a company then it is required to have at least one qualified director (a licensed person also named in Part 1 of the Register) and a person authorised to manage the business (a person named in Part 1 Division 2 of the Register).

There are currently 17 real estate agents named in Part 1 of the Register who are individuals.

Figure 3



The lower number for 2022 – 2023 indicates that a number of businesses did not renew the licence for the coming year. A total of 21 real estate agency businesses did not renew, of those businesses 10 were based in Tasmania and the remainder were based interstate. 2 of the interstate businesses were sole traders and the remaining including the Tasmanian businesses were licensed as a company.

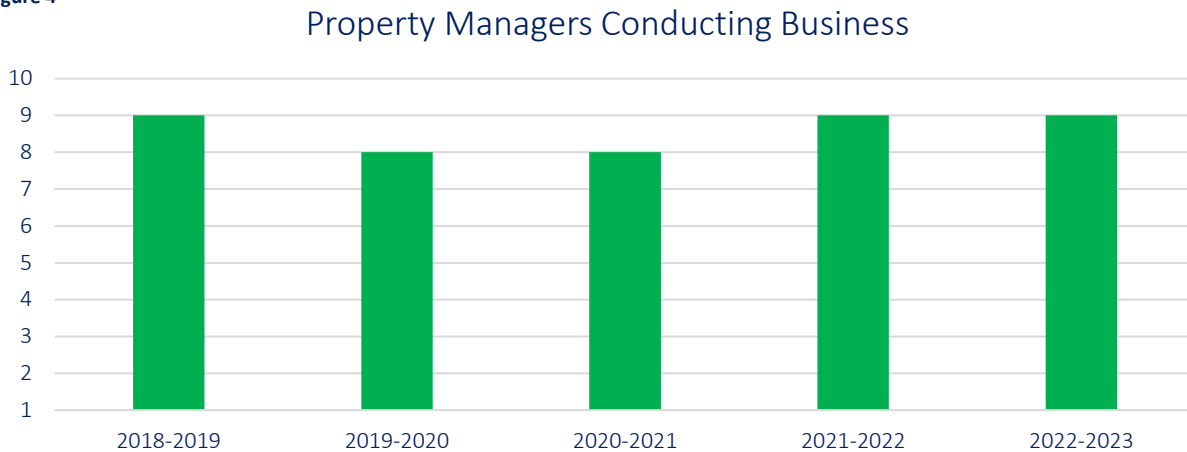
The definition of real estate agency business as provided at Section 3 of the Act means the carrying out of all or any of the following activities pursuant to instructions received from other people:

- (a) selling, buying, exchanging, leasing or otherwise dealing with, or disposing of, property or businesses;
- (b) negotiating the sale, purchase, exchange, lease or any other dealing with, or the disposition of, property or businesses;
- (c) collecting rents for property that is leased or let;
- (d) managing property that is leased or let.

Overview - Property Managers Conducting Business

The number of licensed holders conducting business as property managers has remained constant over the past 5 years. Of the 9 Property Managers conducting business only 1 is an individual, the remainder are companies.

Figure 4



The difference between a real estate agency business and a property management business relates to the definitions prescribed in the Act. The majority of businesses that focus on property management become licensed as a real estate agency business in order to transact a sale should the opportunity arise.

Without that category of licence landlords would need to engage another business to sell the asset.

The definition of property management business as provided at Section 3 of the Act means the carrying out of all or any of the following activities pursuant to instructions received from other people:

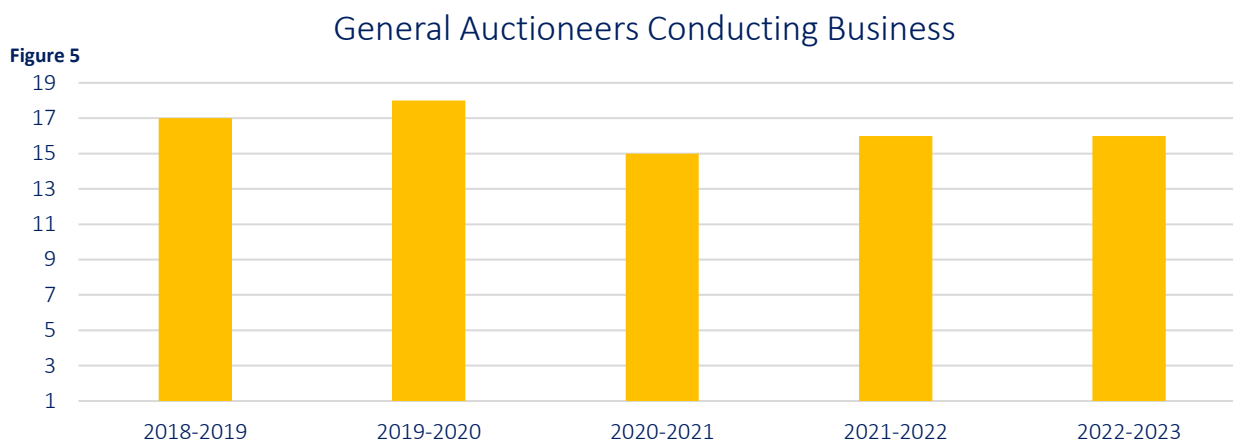
- (a) negotiating the leasing or letting of property;
- (b) collecting rents for property that is leased or let;
- (c) managing property that is leased or let.

Figure 4 shows the number of property managers licensed to conduct business over the past 5 years.

Overview - General Auctioneers Conducting Business

Of the 16 General Auctioneers conducting business there are 2 who are individuals and 14 who conduct business as a company. The total number of general auctioneers conducting business is shown at figure 5.

The reduction in licence numbers during 2020-2021 related to the retirement of one auctioneer, the restructure of another business and the surrendering of three licences, two being based in Tasmania and one interstate business.



The definition of general auctioneering business as provided at Section 3 of the Act means business as an auctioneer where the property auctioned does not include land.

Maintaining the Licence

The graphs on the following page provides a visual overview of the retention rate of property agents by licence type since 2017.

The high number in 2017 for property representatives shown at figure 9 is due to the commencement of the *Property Agents and Land Transactions Act 2016* and the reintroduction of that licence type.

The Original Licence year is the number of new licenses granted in that year; the Valid Licence 2022 indicates that individual has retained that license and the green line shows the percentage. The pyramid shape relates in the graphs for property managers at figure 7 and general auctioneers at figure 8 indicate that the licenses granted in that year remain current. Whereas the flat line at 0 means that there were no new licences granted during that period.

The retention rate for real estate agents is 74.36%; for property managers - 18.06%; for general auctioneers - 37.96% and property representatives - 60.19%

The retention rate for property managers differs as people licensed in that category with the introduction of the Act in 2017 could apply to be licensed as a real estate agent, which was an option not previously available.

Figure 6

Real Estate Agents Individuals

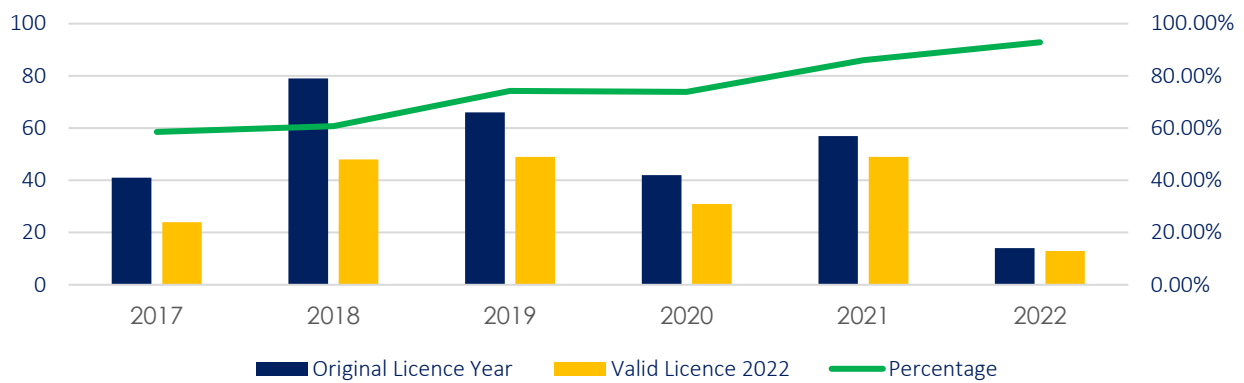


Figure 7

Property Managers Individuals

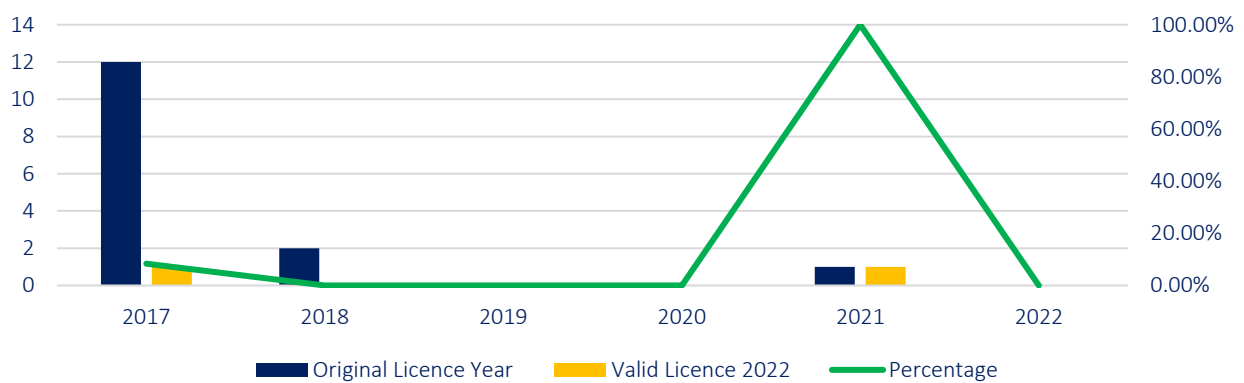


Figure 8

General Auctioneers Individuals

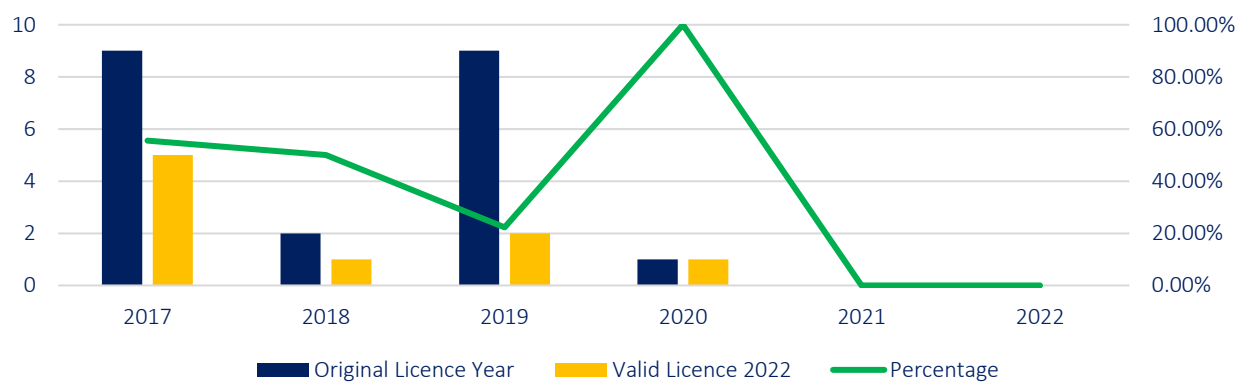
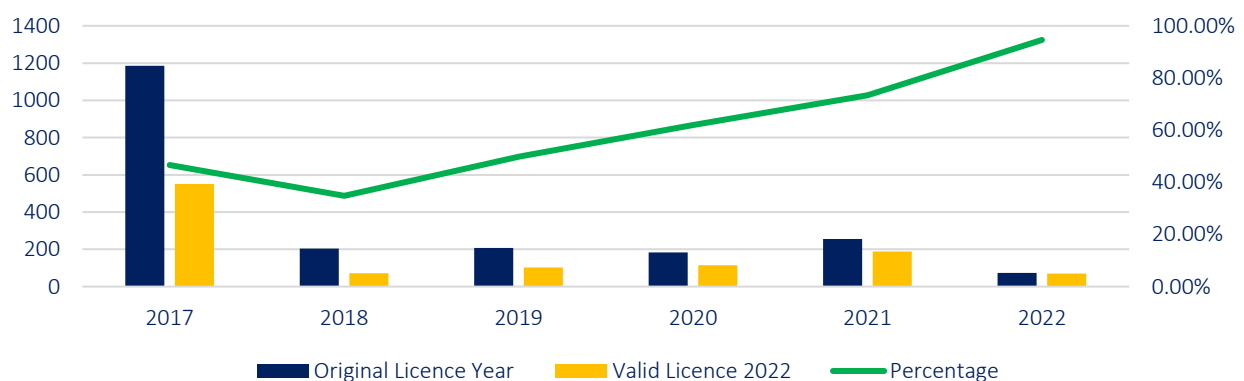


Figure 9

Property Representatives



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Qualifications and Examinations

to perform educational functions for the purposes of this Act which include –

- (a) providing input into establishing the standards of education for property agents; and
- (b) conducting or supervising the conduct of examinations as necessary; and
- (c) determining the subjects in which property agents are required to qualify; and
- (d) approving courses of practical instruction on the functions of property agents.

Qualifications

The qualifications for the four licence types up until 4 May 2022 were prescribed in the Regulations. Regulation 41 was repealed, and a new Section added to the Act as follows:

28A. Board may make determinations on qualifications

- (1) The Board may make a determination specifying the qualifications, including national qualifications, that the Board considers are required to be held by a person in order for the person to be granted a –
 - (a) real estate agent licence; or
 - (b) property manager licence; or
 - (c) general auctioneer licence; or
 - (d) property representative licence.

The Board made the following determinations:

Real Estate Agent

Pursuant to Section 28A of the *Property Agents and Land Transactions Act 2016* (the Act) the Property Agents Board has determined the Qualification required in order for a person to be granted a Real Estate Agent Licence is a Diploma of Property (Agency Management) CPP51119 awarded by a Registered Training Organisation within the meaning of the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth.

Property Manager

Pursuant to Section 28A of the *Property Agents and Land Transactions Act 2016* (the Act) the Property Agents Board has determined the Qualification required in order for a person to be granted a Property Manager Licence is a Diploma of Property (Agency Management) CPP51119 awarded by a Registered Training Organisation within the meaning of the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth.

General Auctioneer

Pursuant to Section 28A of the *Property Agents and Land Transactions Act 2016* (the Act) the Property Agents Board has determined the Qualification required in order for a person to be granted a General Auctioneer Licence is a Diploma of Property (Agency Management) CPP51119 and CPPREP4505 Value Goods, chattels, plant and equipment and CPPREP4509 Auction goods, chattels or equipment awarded by a Registered Training Organisation within the meaning of the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth.

Property Representative

Pursuant to Section 28A of the *Property Agents and Land Transactions Act 2016* (the Act) the Property Agents Board has determined the Qualification required in order for a person to be granted a Property Representative Licence is the successful completion, within the previous 2 years, of an examination for property representatives administered by the Board.

Examinations

The Property Agents Board conducts examinations for the qualification of property representatives.

The property representative 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 basic 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.

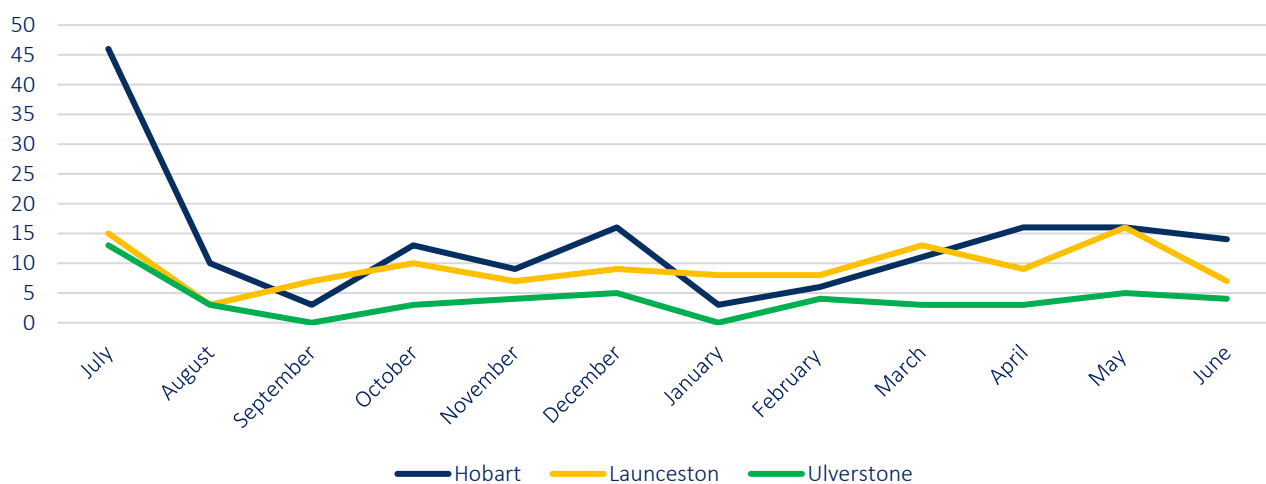
The Board conducts examinations in Hobart, Launceston and Ulverstone each month as shown in Figure 10. There were 322 examinations conducted during the year. The graph below at figure 11 indicates the number of candidates per region each month.

Figure 10

Region	Exam No.
Hobart	163
Launceston	112
Ulverstone	47
Total	322

Figure 11

Examinations by Month and Region



The Board offers special provisions to candidates who have a pre-existing condition which impacts their ability to undertake the examination.

Board staff work with the candidate to understand and respond to the needs of that candidate, such as providing additional time, technology or alternative exam delivery. The following table at figure 12 provides result by attempt and as a percentage for each attempt.

Figure 12

Examination Results by attempt		
	Number	percentage
1 st Attempt Successful	163	67.08%
1 st Attempt Unsuccessful	80	32.92%
2 nd Attempt Successful	47	72.31%
2 nd Attempt Unsuccessful	18	27.69%
3 rd Attempt Successful	9	75.00%
3 rd Attempt Unsuccessful	3	25.00%
4 th Attempt Successful	2	100.00%
4 th Attempt Unsuccessful	0	0.00%
Total	322	

There is no requirement to undertake any form of training prior to attempting an examination however when an exam candidate expresses an interest to sit the property representative examination, they are asked a series of questions one of which is whether they have undertaken any training prior to sitting the exam. The options the candidate can choose from are self-study, from the employing property agent (EPA), REIT Classroom (REIT), REIT Distance learning (Distance) and other.

The following table (Figure 13) indicates study activities successful to unsuccessful during the reporting period which is almost identical to the study activity success rate between 2017 and June 2022 as shown in Figure 14.

Figure 13

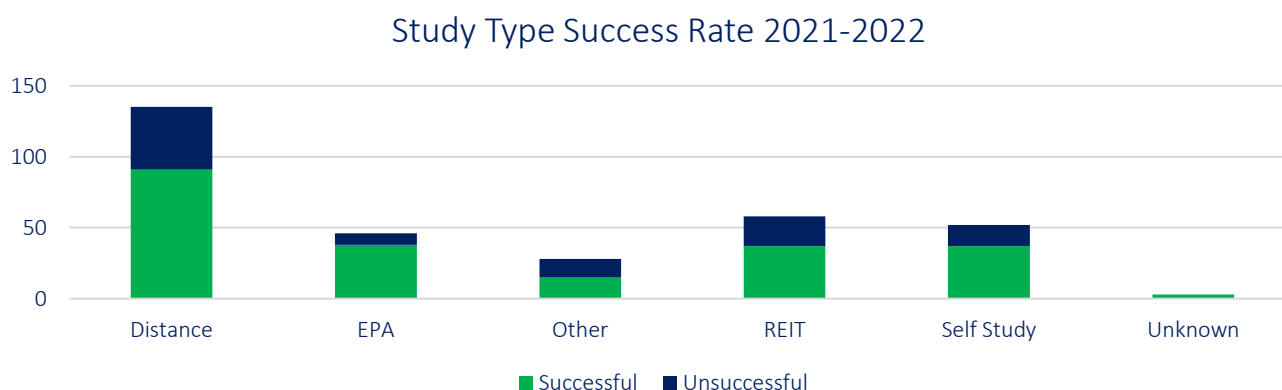
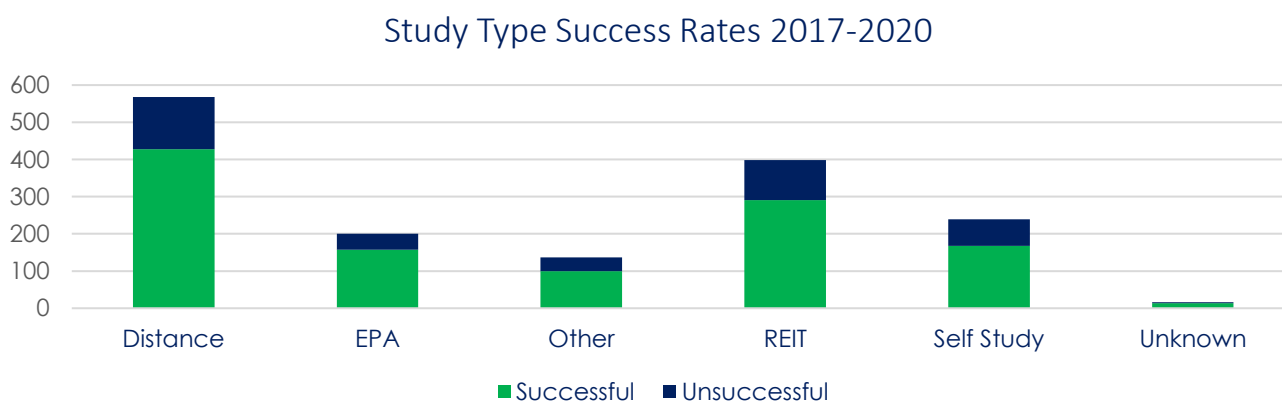


Figure 14



Continuing Professional Development (CPD)

A licence may be subject to conditions of the following kind:

a condition requiring the licensee to undertake or complete a specified course of studies within a specified period of time;

a condition requiring the licensee to undertake, by way of professional development, specified further education or training during the term of the licence.

CPD conditions

The Board imposes various CPD conditions which are printed on the property agent's licence. During the reporting period there were 10 different CPD conditions used on licenses. The majority of the conditions are more generic in nature as demonstrated in figure 15, however some property agents have had a specific CPD condition attached to their licence.

Figure 15

CPD Type	Licence no.
8 points	1455
16 points	28
Cert IV	149
Tas Legislation	74

Example of 8 points CPD condition:

The holder of this licence is required to undertake 8 points of Continuing Professional Development (CPD) prior to 30 June 2022. The CPD must consist of at least 6 points of industry specific activity. Further, of the industry specific activity at least 2 points must be delivered by an external provider.

Example of a more specific CPD condition:

The holder of this licence must undertake the following units of study based on Tasmanian legislation CPPREP4003 Access and interpret legislation in real estate; and CPPREP4005 Prepare to work in real estate trust accounts by 30 June 2022.

There are 149 property representatives that have the Certificate IV qualification as their CPD requirement and 74 property agents have a mutual recognition CPD requirement, that being the licence holder must complete units of study on Tasmanian legislation.

Compliance

The Board expects full compliance for CPD licence conditions however it does exercise discretion by providing extensions for completion and for extreme extenuating circumstances may consider an exemption of the licence condition. During 2021-2022, three licence holders were provided an exemption from the CPD condition, and 28 licence holders were provided an extension to complete the 2021-2022 CPD requirement and must complete 16 points of CPD prior to 30 April 2023 in order for the licence to be renewed for the 2023-2024 licence period.

An audit of CPD took place during the renewal period from 28 April to 3 June 2022 with 104 property agents being randomly selected to provide evidence of the CPD completed.

The Audit investigated 43 submitted duplicate CPD activities from the prior licence period; of those 25 property agents re-submitted newly completed CPD activities; 9 property agents used subscription based training activities and it was accepted that it was new content for CPD purposes; and 9 property agents used a mainland training provider who provided the same training activities as the previous year. This provider will not be approved again. The Board considers overall the CPD compliance of property agents has been of a high standard.

CPD Declaration via Online Portal

The Board introduced its online portal in March 2022. The online portal provided through a search function the name of the activity which identified the CPD points allocated to that activity which allowed property agents to declare their CPD.

Property Agents can declare completed CPD at any time during the year, they are now able to see the activities they have submitted that year as well as historic information.

The online portal information is reviewed by Board staff and once accepted that information is automatically transmitted and stored in the licensing system for future reference.

Review of CPD Activities

The Board undertook a review into the types of CPD activities undertaken by Property Agents in Tasmania; the types of CPD activities the Board will approve in the future and CPD activities declared by property agents as part of their licence renewal.

One of the considerations was the training material content and depending on the activity type whether it was intended to be consistent with Tasmanian Legislation and Industry practice. The Board determined that where training material content did not meet an appropriate standard approval it would be removed.

CPD Provided by Property Agents Board

The Board's Executive Officer conducted 3 information sessions and 10 CPD online sessions during 2021-2022. The information sessions and 3 online sessions related to the introduction of the 2022 Code of Conduct - Version 4.

The remaining online sessions topics included trust accounting and month end reconciliations, advertising, general compliance; the complaint process and case studies. As the sessions were well received it is planned for CPD sessions to be conducted regularly through the year.

Certificate IV in Real Estate Practice

A key change to CPD requirements for property representatives was implemented during the reporting period. The Board determined that all new property representatives with licenses granted on or after 1 August 2021 were to successfully complete the CPP41419 Certificate IV in Real Estate Practice to remain licensed.

The Board noted the Certificate IV qualification reflected the role of real estate professionals who apply knowledge of real estate practice; legal agency and compliance requirements, ethical standards and consumer preferences to conduct real estate functions.

This means once a property representative has been granted a licence they will have the licence condition to complete the CPP41419 Certificate IV in Real Estate Practice.

The condition has been imposed in two distinct phases. The property representative will be required to successfully complete the 5 core units within a specified time period as noted on the licence. Then the remaining units to complete the Cert IV within another specified time period which will be noted on their licence.

The timeframes in which the property representative will be required to complete the two phases will depend on when the licence is granted.

The 5 core units will be required to be completed in no less than a 12-month period and the remaining units within a period of no less than a 24-month period. The condition on the licence will clearly set out the requirements for that licence holder.

Property representatives who complete the CPP41419 Certificate IV in Real Estate Practice will not be required to undertake CPD for up to 24 months after completion.

The Property Agents Board requires the Core Units; Group A – Residential Property Sales; Group B – Residential Property Management and 3 elective units of choice.

CPP41419 Certificate IV in Real Estate Practice	
Core units	
CPPREP4001	Prepare for professional practice in real estate
CPPREP4002	Access and interpret ethical practice in real estate
CPPREP4003	Access and interpret legislation in real estate
CPPREP4004	Establish marketing and communication profiles in real estate
CPPREP4005	Prepare to work with real estate trust accounts
Elective units	
Group A - Residential Property Sales	
CPPREP4101	Appraise property for sale or lease
CPPREP4102	Market property
CPPREP4103	Establish vendor relationships
CPPREP4104	Establish buyer relationships
CPPREP4105	Sell property
Group B - Residential Property Management	
CPPREP4101	Appraise property for sale or lease (from Group A not repeated)
CPPREP4102	Market property (from Group A not repeated)
CPPREP4121	Establish landlord relationships
CPPREP4122	Manage tenant relationships
CPPREP4123	Manage tenancy
CPPREP4124	End tenancy
CPPREP4125	Transact in trust accounts

Conduct and Complaints

to receive, investigate and determine complaints against property agents;

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

Complaint Management

The total complaints under review during the year was 118 matters.

There were 41 complaints brought forward from 2020-2021; a total of 75 new complaints received during 2021-2022; one matter from 2020-2021 was reactivated in 2021-2022; and one matter returned from the Tribunal and was dealt with by the Board. At the end of the reporting period 45 complaints are yet to be determined.

There were 59 complaints finalised; 5 complaints withdrawn by the complainant; and 9 matters referred to the Tribunal as shown in figure 16.

Figure 16

Complaint Results 2021-2022	
Withdrawn	5
Over 12 Months – not in public interest	2
Summarily Dismissed - Lacking in Substance	34
Summarily Dismissed - Misconceived	2
Summarily Dismissed - Frivolous	1
Investigation - Not Substantiated	10
Investigation – Substantiated – Caution	5
Investigation – Substantiated - Reprimand	5
Investigation - Referred to Tribunal	9
Total	73

Complaint Process

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 on the Board's website 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 on how the conduct may be summarised and the potential ground(s) of complaint. This assessment is provided to the complainant with a request for confirmation that the assessment is accurate. The complaint is then sent to the property agent with an invitation to provide submissions in response.

Once received, the property agent's submission is often provided to the complainant for further 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 further information is required.

If further information is required, then the matter progresses to an investigation otherwise the Complaint is summarily dismissed pursuant to Section 92 of the Act.

After an investigation, if the Board considers that there is insufficient evidence to substantiate the complaint, it will be dismissed under Section 100(a) of the Act.

If the evidence collated during an investigation indicates that the conduct amounts to minor misconduct, the Board may deal with the matter itself pursuant to Section 101 of the Act.

In this process the Board may, by written notice require the property agent to provide the Board with a written explanation of the conduct as a final opportunity to persuade it against a misconduct finding.

The Board considers the explanation and determines what action needs to be taken against the property agent.

If the Board considers that upon further receipt of the property agent's explanation that there is insufficient evidence to substantiate the complaint, the Board must dismiss it.

However, if the complaint is substantiated the Board can caution or reprimand the property agent, or accept an undertaking from a property agent to take or refrain from taking action specified by the Board.

The Board must refer the matter to the Tribunal if a property agent fails to comply with the notice to provide a written explanation or if the property agent requests that the matter be considered by the Tribunal or if during consideration of the written explanation that the Board considers that the conduct amounts to more than minor misconduct.

Therefore, if the Board considers that the complaint cannot be summarily dismissed, or dismissed after investigation as there is insufficient evidence to substantiate the complaint, or that the conduct is more than minor misconduct, it must under Section 101(7) 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 Tasmania Police.

Powers of Investigation

At the initial stages of a complaint the property agent is invited by the Executive Officer to make submissions in respect to the alleged conduct. Most property agent will respond with information for an assessment of the alleged conduct to be made.

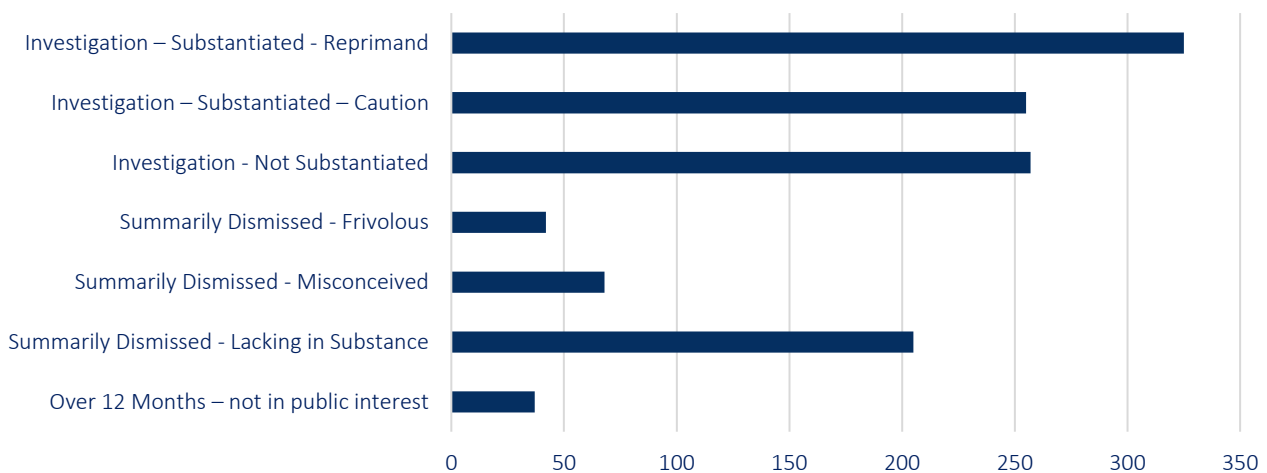
If further information is required, then the Board (or Executive Officer with delegated authority) will initiate an investigation at which time specific information may be requested from the property agent and or other relevant parties.

Property agents who are no longer working in the industry appear to be more reluctant to provide information than those still working in the industry. There is a misconception that the once a property agent is no longer licensed that disciplinary action cannot be taken against the property agent.

At times the Board is required to serve a notice which compels the property agent to comply with the requirements of the notice. This notice issued pursuant to Section 97 of the Act request the property agent to provide the Board with written information verified by statutory declaration; to produce a specified document or a copy of the document and to otherwise assist or cooperate with the Board in the investigation of the complaint. Figure 17 shows the average number of days to achieve the complaint result.

Figure 17

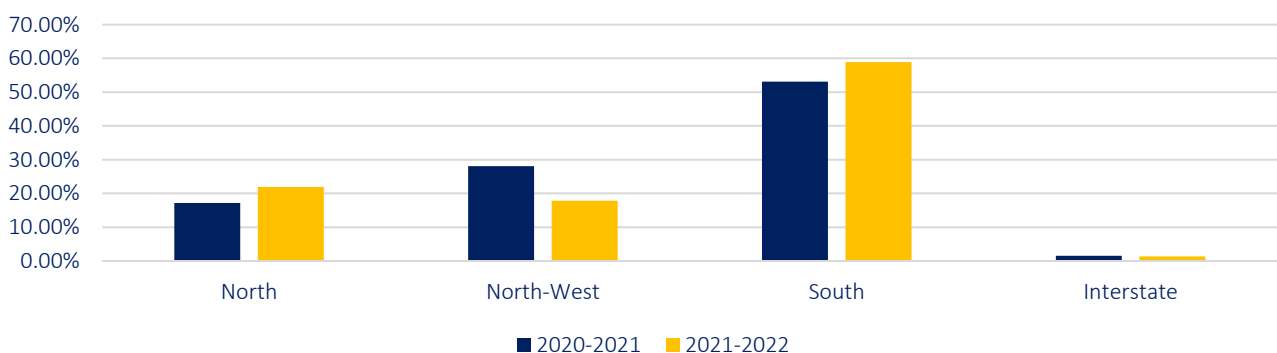
Number of days to achieve complaint result



The graph below at figure 18 indicates the region of the property agent being complained about. The figures differ to those reported last year, with a slight increase in the complaints in the South from 53% last year to 59% this year and the north and north-west have changed positions, with the North-West being at 28 % last year and 17% this year and the North being 17% last year and 22% this year.

Figure 18

Region of property agent being complained about

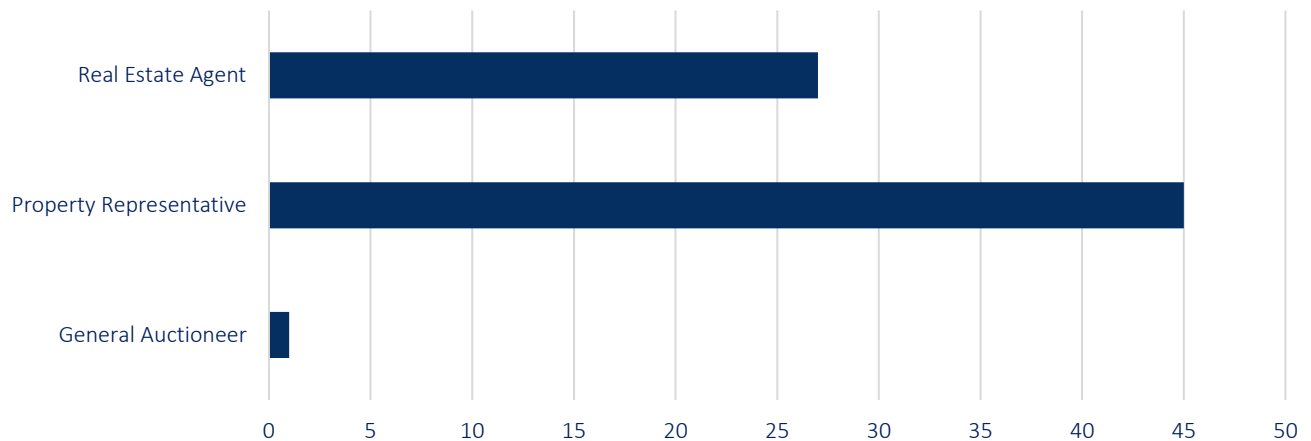


There is a comparison between the number of licenses in a particular category of licence and the number of conduct complaints received. There was a high number of complaints against property representatives as they hold the majority of licenses in Tasmania. This is demonstrated in figure 19.

Of the property agents who were the subject of a conduct complaint determined during the reporting period a total of 10 property agents no longer held a valid licence, 1 being a real estate agent and 9 being property representatives.

Figure 19

Licence category of property agent complained about



Complaint Handling

The majority of complaint enquiries are dealt with initially by telephone and the Board encourages a complainant to resolve matters directly with the property agent or their managing agent before lodging a formal complaint.

The Board's officers provide guidance on how a potential complainant might manage to 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.

The Board categorises who has made the conduct complaint in terms of the transaction position of the complainant, see Figure 20; the "other" category is used when the complainant does not fall within the 4 client/customer category, this year the 18 relates to 10 property agents making a complaint against another property agent; the Board initiating a conduct complaint of its own volition (7) and one person who was a guest for an Airbnb property.

Figure 20

Complainant Type	Last year	This year
Landlord	7	17
Other	14	18
Purchaser	20	19
Tenant	21	12
Vendor	2	9
Total	64	75

The number of complaints has risen from the previous reporting period from 64 in 2020-2021 to 75 in 2021-2022 and so too has the complexity of some complaints being dealt with.

Of the matters determined during the reporting period complaints were managed overall by the Complaints Officer with administrative support. Complaint and investigation reports were completed by the Complaints Officer, an External Investigator and the Executive Officer as indicated in figure 21. Once a report has been prepared it is tabled before the Board for its consideration.

Figure 21

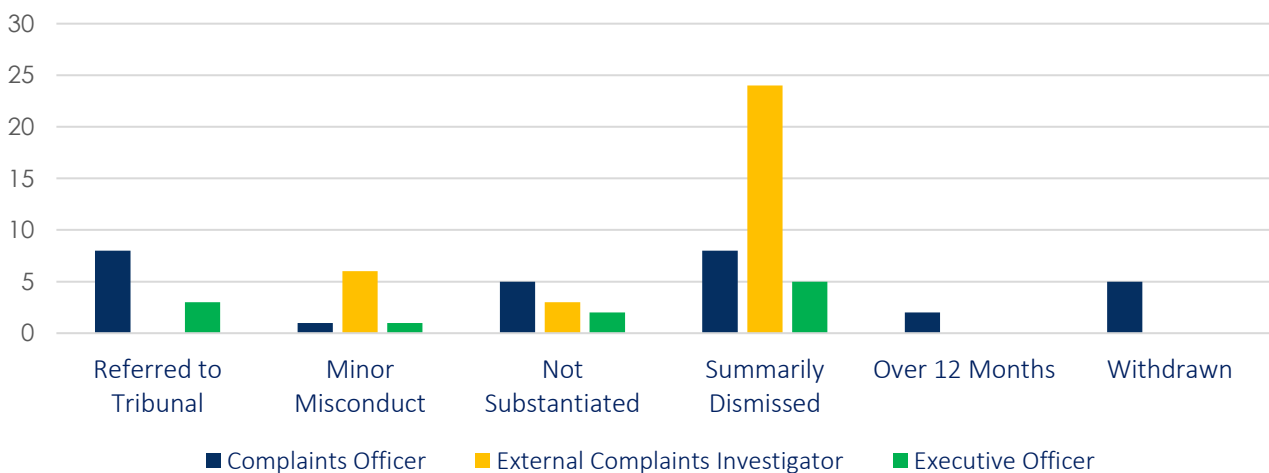
Complaint Management



The number of matters that resulted in the matter being determined as minor misconduct or more than minor misconduct and referred to the Tribunal is demonstrated in the chart below at figure 22. When a matter is more complex in nature the time required to investigate the complaint increases.

Figure 22

Complaint Outcome



As indicated previously complex complaint matters draw on the Board's resources with more time and complaint experience being required to investigate the complaint. The Complaints Officer has concentrated on complex matters during the reporting period which in turn has required the External Complaints Investigator to be utilised, mostly assisting with less complex matters. The Executive Officer handles some complaint files, usually when the matter involves trust accounting provisions or if the Complaints Officer has a conflict of interest.

Licence Fee Changes

Licence fee increase

The Board's primary source of income generated by the Board's functions are licence fees. A lesser source of income is also achieved through licence application assessment fees (a fee set by the Board), examination fees and sundry income from bank interest, late fees and fines.

The Board had previously applied to the Tasmanian Government for annual funding from the Property Agents Guarantee Fund (the Guarantee Fund) where the requested amount of funding was based on the (deficit) difference between the expected income less the expected expenses. The Board was aware however that drawing on surplus money from the Guarantee Fund did not allow for a sustainable funding model and it considered that the only true mechanism to achieve sustainable funding for its operations was to review licence fees.

Licence fees

The licence fees, examination fees and late fees are set by fee units prescribed in the *Property Agents and Land Transaction Regulations 2017* (the Regulations).

The number of fee units for each category of licence was implemented at the commencement of the *Property Agents and Land Transactions Act 2005* (the Repealed Act). The value of the fee unit is indexed by government each year. The value of a fee unit during 2021-2022 was \$1.65.

The change in licence fee structure was considered necessary as any real change to income was reliant on a change to two licence categories. These categories being real estate agent (P1D2) and property representatives (P4).

Property representatives (P4) are the largest cohort of licence holders and in order for licence fees to have a meaningful impact for the Board's sustainability, the licence fees of property representatives needed to be equivalent to real estate agents.

The Board considered there was no difference in the administrative or regulatory burden between licence types.

Consultation with Industry Body

The Board considered a number of different licence fee modelling scenarios and after extensive consultation with the Real Estate Institute of Tasmania (REIT) it was determined that a flat licence fee structure was the most suitable.

The change to a flat fee structure achieves licence equality - the functions between the individual licence types of real estate agent and property representative is whether or not the licensee is to be supervised. The level of work regarding sales or management of property is not different i.e. list property, negotiate sale, complete legal documents etc.

Request to Tasmanian Government

The Property Agents Board made a request to the Tasmanian Government to increase licence fees to assist with the costs of administering the Act and performing its functions.

The licence fees were as follows:

Licence type	Current licence fees
Real Estate Agent carrying on business (P1D1)	\$450.45
Real Estate Agent (P1D2)	\$150.15
Property Manager carrying on business (P2D1)	\$376.20
Property Manager (P2D2)	\$150.15
General Auctioneer carrying on business (P3D1)	\$450.45
General Auctioneer (P3D2)	\$150.15
Property Representative (P4)	\$75.90

The Tasmanian Government prepared a regulatory impact statement on the proposed changes which was available for community consultation.

The proposed licence fee increase was to be implemented in two increments one to commence during the reporting period and another increase for the renewal period during 2022-2023.

On 4 May 2022 the *Property Agents and Land Transactions Amendment Regulations 2022* were enacted and changed the licence fees to be as follows:

Licence type	2022 Licence fees
Real Estate Agent carrying on business (P1D1)	\$450.45
Real Estate Agent (P1D2)	\$277.20
Property Manager carrying on business (P2D1)	\$450.45
Property Manager (P2D2)	\$277.20
General Auctioneer carrying on business (P3D1)	\$450.45
General Auctioneer (P3D2)	\$277.20
Property Representative (P4)	\$277.20

The licence fees from 1 April 2023:

Licence type	2023 Licence fees
Real Estate Agent carrying on business (P1D1)	\$450.45
Real Estate Agent (P1D2)	\$405.90
Property Manager carrying on business (P2D1)	\$450.45
Property Manager (P2D2)	\$405.90
General Auctioneer carrying on business (P3D1)	\$450.45
General Auctioneer (P3D2)	\$405.90
Property Representative (P4)	\$405.90

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Automatic Mutual Recognition (AMR)

In 2020 the Council on Federal Financial Relations (CFFR) advised that a framework for occupational licences to be automatically recognised across all jurisdictions including property agents would be developed.

Mutual Recognition Amendment Act 2021 (MRA Tas)

Tasmania's *Mutual Recognition Amendment Act 2021* (MRA Tas) commenced on 22 December 2021. MRA Tas adopts the Commonwealth's Mutual Recognition Act amendments to implement the new Automatic Mutual Recognition scheme (AMR).

AMR involves a person already holding a registration/licence in their Home State to be "deemed" registered in another jurisdiction (Second State).

There is no assessment or licence fee paid to the Second State, and the deemed licence continues until the Home State's licence is cancelled. AMR requires a higher level of exchange of information between jurisdictions compared to the existing mutual recognition scheme.

Occupational Licensing (Automatic Mutual Recognition Consequential Amendments) Bill 2022

AMR will affect a range of occupational licences or registrations. Consumer, Building and Occupational Services (CBOS) identified that some amendments were required to several acts including *Property Agents and Land Transactions Act 2016* to facilitate the AMR scheme.

The proposed amendments in the Bill do not change the criteria, terms or conditions of any occupational licence in Tasmania.

The changes ensure that those interstate licensees entering Tasmania to work under the AMR scheme do so on a level playing field with those licensed in this state.

The proposed amendments are also unrelated to any exemptions from AMR.

Provisions providing for the Tasmanian Government to introduce exemptions were given effect by the *Mutual Recognition Amendment Act 2021*.

Exemption from Automatic Mutual Recognition for Property Agents in Tasmania

All licence categories under the *Property Agents and Land Transactions Act 2016* have been temporarily exempted from AMR until 1 July 2023.

Board's position on AMR

The Board considers that Automatic Mutual Recognition for certain occupations would be beneficial to allow fluidity of workers in certain industries and in certain circumstances especially when the occupation has conformity of process and technical requirements.

In the circumstances where there are national consistent regulatory systems fluidity of a person to work between States and Territories for fly-in/fly-out scenarios or for natural disasters would be extremely beneficial, however the Board does not consider that the property industry aligns with these types of scenarios.

Difficulties for AMR in the property industry

The Board considers that there is not yet enough consistency of regulation across jurisdictions for effective implementation of AMR for the property industry.

The Board suggests that the property industry has a much heavier reliance on local knowledge and local licence and legislation differences for consumer protection than other occupational licences. There are different regulatory requirements for the property industry in each jurisdiction.

Existing Difficulty with Mutual Recognition

The Board considers that amongst other things, the current mutual recognition scheme for the property industry has many challenges in relation to the variance of licence categories, performance of regulated functions and standards of educational qualifications.

There are significant difficulties experienced under the current MR Act for the property industry. Due to the local industry nuances a person entering the property industry under the MR Act usually experiences difficulties to comply with the new jurisdiction's legislative requirements and is typically required to undertake targeted professional development activities to be considered competent.

Licence Titles and Functions

Each State has different licence titles. Recognition cannot be based on the licence title, but a review of the functions or activities undertaken for that licence type is required in order to understand what the applicable licence category should be in the Second State.

A person who has automatic deemed registration to carry on an activity is entitled to carry on the activity in the Second State to the same extent that the person is authorised to undertake the activity in their Home State.

"Activity" is not the same as "occupation". All registered activities need not always be the same in both states, and the purpose is to apply uniformity in activity standards, not that all registration laws must be the same.

Implementation

The implementation of AMR will draw considerably on the resources of the Board over the next six months in order to meet the 1 July 2023. It is also expected that ongoing management of the AMR scheme will impact on the Board's staffing levels and is likely to result in additional legislative changes needing to be considered.

Report of the Tribunal

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 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. Mr Keyran Pitt QC was re-appointed by the Governor on 1 June 2020 for a further 3-year period.

Under the Schedule there is a Panel of persons 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 with at least 5 years' experience as property agents, appointed from a list of persons nominated by the body that the Minister is satisfied represents the views of the majority of property agents; and five persons the Minister considers represent the interests of consumers.

Under Clause 2(5) of Part 1 of Schedule 2 of the Act, Panel Members hold their positions at the pleasure of the Minister.

The panel of members who are Property Agents is

Mr	Peter	Bushby
Mrs	Pam	Corkhill
Mr	Sam	Woolcock
Ms	Robbie	Yeoland
Vacant		

The panel of members representing the interests of consumers is

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. At the end of the Reporting Period, Mrs Renata Cowen held the position of Registrar.

Process

The Tribunal's objective is, pursuant to the relevant purpose of the Act of regulating property agents, to resolve disputes relating to the registration/licence and conduct of property agents.

The Tribunal's caseload is principally comprised of:

- appeals against decisions by the Board to refuse to grant a licence;
- appeals against decisions to suspend a person's property licence;
- referrals by the Board of a conduct disciplinary matter; or
- an appeal from a Board decision by an aggrieved person (usually the Complainant from a conduct complaint dismissal).

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 an appeal.

The time frame for making an appeal is prescribed within Section 116(3)(a) of the Act, that is 14 days. However, Section 116(3)(b) also allows an appeal to be accepted by the Tribunal if it is considered appropriate to the interests of justice.

Referrals

The Tribunal receives a written 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 matter 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, 147 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 which must be exchanged between the parties and the timeframes for submission of those documents to the Tribunal. It is normally directed that all documents and other communications with the Tribunal, be also forwarded to each other party.

There may be more than one directions hearing required before the matter can proceed to a hearing, for example if jurisdictional, extension of time, or other rulings are required.

Hearing

The Tribunal conducting the hearing consists of the 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 Tribunal considers that it is in the public interest to do so (Section 109 of the Act). No matters were open to the public in the reporting period.

Decisions

Tribunal decisions are normally reserved. The Tribunal confers subsequent to the hearing, in order to reach a decision. The President then drafts the written decision and 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 as 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. As mentioned previously in this annual report the Board has determined to publish Tribunal decisions.

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 does so when appropriate in conduct disciplinary matters. The Tribunal may make an order for costs against the Board when it is considers it appropriate to do so.

Appealing against a decision of the Tribunal

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 usually request that the Board be made a party to the appeal (if the Board has not previously applied to be joined to the appeal). The Registrar then tenders all documents pertaining to the Tribunal decision to the Magistrates Court. Otherwise, the Tribunal submits to the jurisdiction of the Court, and plays no further part in the appeal.

Report of Activities 2021-2022

Referrals Received 2021-2022

The Tribunal was sent five formal referrals and was notified by the Board that another conduct referral was pending in respect of conduct complaint during 2021-2022.

One matter was determined, and the Property Agent admitted unsatisfactory professional conduct.

Referrals Brought forward

Two Conduct referrals against property agents were brought forward from previous reporting periods.

These matters were determined with one property agent admitting unsatisfactory professional conduct and the other professional misconduct.

Appeals Received 2021-2022

Appeals before the Tribunal are conducted by way of a re-hearing on the factual material before the Board when it made its decision. The Tribunal must consider whether the decision of the Board was reasonably open to it on that material.

No additional factual material is normally received by the Tribunal from the parties, during the appeal process.

Three conduct appeals and one licensing appeal were received from Board decisions in the reporting period.

One conduct appeal was withdrawn as was the licensing appeal by the Appellant and two conduct appeals are yet to be determined.

Appeals Brought forward in 2021-2022

Two appeals from a decision of the Board upon a complaint were brought forward from a previous reporting period. One decision of the Board was upheld by the Tribunal on appeal and the matter did not proceed further.

However, in the other matter the Tribunal's decision was appealed to the Magistrates Court – Administrative Appeals Division and that appeal has yet to be determined by the Magistrates Court.

One appeal for a decision of the Tribunal was appealed to the Magistrates Court – Administrative Appeals Division. The Tribunal advised it would abide by the decision of the Court and the Board was made party to the proceedings.

The decision of the Tribunal was upheld by the Magistrates Court. The Property Agent was ordered by the Court to pay the costs of the Board.

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Code of Conduct

to develop and ensure compliance with a Code of Conduct for property agents;

Review

During the latter part of the 2020-2021 reporting period the Board undertook a full review of the Code of Conduct and after consultation with key stakeholders and the property agents industry, a suite of amendments were adopted for inclusion in the 2022 Code of Conduct – Version 4 which came into effect on 1 January 2022.

The Board's Executive Officer presented information sessions in Hobart, Launceston and Devonport in late 2021 as well as delivering Zoom training sessions in December 2021, January and March 2022. A copy of the 2022 Code of Conduct - Version 4 was emailed to all licensed property agents prior to its commencement and is available on the Board's website.

To provide further guidance for the changes the Board developed and published advice notes to the amendments.

Clause 6 - Supervision of Employees

The property agent who manages a business must supervise the work of the people employed or engaged to work in that business and is to ensure that everyone understands and complies with the *Property Agents and Land Transactions Act 2016*, the *Property Agent and Land Transactions Regulations 2017* and the Code of Conduct.

The Act provides that the Board is to only notify "the property agent who is the subject of a conduct complaint". The Act does not provide for the Board to make the managing property agent aware of conduct complaints against individual property agents.

As a real estate agent, property manager, or general auctioneer, who manages a property agent's business is to diligently supervise the work of all other persons employed this clause in the Code of Conduct provides the mechanism for the supervising property agent to be made aware of a conduct complaint.

The property agent who is subject to a complaint should notify the property agent named in the Board's Register as the person authorised to manage, this should not be confused with internal positions of a department manager or the like.

Clause 7 - Dispute Resolution

From time to time customers or clients of a real estate agency business may wish to make a complaint.

A complaint can be against an individual working in the business or it can be about a policy or procedure adopted by the business.

A property agent business must have a document which explains the complaint procedure.

There is also a requirement for the property agent to make all reasonable efforts to resolve a complaint and within a reasonable timeframe.

Clause 9 - Information Disclosure

The information disclosure clause in the Code of Conduct relates to the interaction between the property agent, the client and the customer and what, when and how information is disclosed.

The Code provides that a property agent should not disclose information relating to the client or customer unless the consent is provided or unless it is required by law.

The information disclosure provisions also highlight the manner in which a person behaves (conduct) because it is not always what a person says that provides meaning, it can be the way in which something is said or even certain gestures.

The information disclosure provisions relate to when a property agent is working for the client and interacting with the customer **and** after the interaction has been finalised.

A property agent can promote themselves or the listings/sale etc achieved however it is important to de-identify information of a client or customer.

Clause 12 – Conflict of interest, rights and responsibilities

(11) relates to the advertising price of a property when it is initially advertised for sale. This clause is designed to ensure that the property agent will not “underquote” the property.

The initial advertised price should be within a range that the client considers as an acceptable offer.

Anecdotally a vendor will initially say, *“I won’t sell for anything less than X dollars”* or *“I can’t sell unless I get X dollars”*, and depending on whether it is a buoyant market where properties sell easily or a soft market where properties are slower to sell this position may change.

There is a difference between the price that a vendor will accept and the price that a vendor wants on a property. This amount can change depending on the vendor’s priorities. This clause is designed to ensure that the initial advertised price on the property is set around a level which can commence negotiations between the vendor and potential purchasers regardless of a soft or buoyant market.

(12) describes the multiple offer process used in Tasmania. In a buoyant market there can be considerable competition between purchasers to secure ownership of a property. The multiple offer process has been developed by the property industry in Tasmania to deal with multiple purchasers competing for the same property.

The multiple offer process is not designed to stop the counter offer process between a vendor and purchasers but it is designed to ensure that all parties are aware that they are in competition and that they may or may not get another opportunity to amend the offer made.

It is the vendor who decides whether they wish to use a multiple offer process and if they wish to negotiate with one or more purchasers. It is important to remember that other purchaser's offers will not be disclosed to another purchaser.

When the property agent's client is the vendor, the property agent's duty is to obtain the best price and conditions possible for their client. At the same time the property agent must act in a fair, honest and reasonable manner towards the customers (in this scenario, purchasers).

(13) provides that a property agent must disclose to a customer or a client that the property agent or the property agent's business has an interest in a service or contract that is going to be used by the customer or client. An example of this would be that an owner of a property management business is also an owner of a maintenance business which is used by the property management business.

There is no suggestion that the rates charged by the maintenance business would not be on commercial terms, but the disclosure provides for full transparency.

Clause 14 – Records access and transfer

Records access and transfer allows movement of property management records from the existing property agent managing the property or business to another property agent, the existing owner or if the property or business has been sold the new property owner.

Clause 16—Unsatisfactory professional conduct

This addition is to indicate that unsatisfactory professional conduct can also relate to the interaction that a property agent has with a customer.

Clause 19 – Professionalism in the Property Agents Industry

Property Agents have a responsibility to report to the Board conduct that could be reasonably believed to constitute unethical, professional misconduct or unprofessional conduct.

There is a requirement for a property agent to report to the Board in writing any matter that may affect their ability to work as a property agent or to maintain a property agent licence.

The matters that may affect the ability to work or maintain a property agent licence include but are not limited to drug offences, bankruptcy or entering a composition or

arrangement with creditors (commonly known as a Part IX Debt agreement), Fraud or Dishonesty, offences related to persons or property.

The industry uses many different names to describe different roles. The clauses in 19 (2) of the Code of Conduct are designed to ensure that a property agent is not holding themselves out as being licensed at a category of licence that the person does not have.

As well as the protected title, a property agent should not use a title such as Estate Agent if that person only holds a property representative licence. The term Estate Agent is not a protected title in Tasmania however it does represent a certain level of licence which would be equal to that of a real estate agent.

The Board's preferred position is the title used by the licence holder is the one that is printed on that person's licence, ie real estate agent, property manager, general auctioneer or property representative, or alternatively the generic term, Property Agent.

It is also important for a property agent to remember that when they are promoting themselves or their business that the advertisement doesn't create a false or misleading impression.

As an example, if a property agent advertised that 550 properties had sold in their area in the last 6 months in a manner that suggested that their agency sold all 550 properties (when in fact the 550 properties were sold by 10 different property agency businesses) then that could be considered as false and misleading.

Another example is when a property agent changes agencies and advertises properties sold under the new agency banner (when they were actually sold while employed by their previous employer).

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Legislative Amendments

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;

Property Agents and Land Transactions Act 2016

The *Property Agents and Land Transactions Amendment Act 2020* and *Property Agents and Land Transactions Amendment Regulations 2022* were enacted on 4 May 2022.

The amendments were generally minor in nature and are summarised below.

Interpretation - Section 3 - small changes to the definition of property management business and real estate agency business;

Conditions of licence - Section 20 - addition of the following clause

2(ab) a condition requiring the licensee to notify the Board, in an approved form, of any change in the licensee's name, business address or contact details as soon as practicable after that change;

Qualifications – amendments to **Sections 25,26,27,28** and the addition of Section 28A as below:

The Board may make a determination specifying the qualifications, including national qualifications, that the Board considers are required to be held by a person in order for the person to be granted a –
 real estate agent licence; or
 property manager licence; or
 general auctioneer licence; or
 property representative licence.

Registers - small changes **Sections 30, 31, 32, and 33** with the addition of the word “business” before address. This is to ensure that it is the business address of the property agent published not residential address.

Management of Business – small changes to **Section 36, Section 37** and **Section 60** to indicate that a business is required to be managed by a “natural person”.

Employment provisions - addition to **Section 38** to include clause for real estate agents and property agents to be employed or contracted by a real estate agency business or property management business.

False or misleading advertising – **Section 56** and **Section 65** change to definition and inclusion of defense provisions.

Code of Conduct – **Section 84** change to distribution requirements.

Service of Documents – **Section 168** additional clause to permit the Board to serve documents by email.

Property Agents and Land Transactions Regulations 2017

The amendments to the Regulations were to repeal **Regulation 41** – this change allows the Board to make the qualification declaration as described in Section 28A of the Act.

Schedule 1 – Fees was amended and a change to the annual licence fees units were made for those fees payable before 1 April 2023 and those payable after 1 April 2023.

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Education and Awareness

to advise property agents on appropriate standards of conduct;

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

to ensure that people do not act as property agents unless they are permitted to do so under this Act

to perform educational functions for the purposes of this Act

Publications

The Board continues to develop publications for use by the industry and the public to understand various aspects of legislative provisions and industry practice. This information is available on the Board's website.

The website, information bulletins, fact sheets, advice notes and guidelines are part of our educative process and, in part, a way of fulfilling the function of advising on appropriate standards of conduct.

During the reporting period there were 20 Advice Notes and Guideline publications available on the Board's website. Copies of the Information Bulletin which is published in June/July and December each year remain on the website for reference purposes.

The published information available dates back to April 2017 which ensures that the information is relevant to current legislative provisions as the Act commenced on 1 April 2017.

For some time the Board has developed Case Studies from complaint outcomes which is designed to inform the industry of appropriate standards of conduct and how the complaint matter has been regarded. There are some 11 Case Studies available on the website.

Publication of Decisions

The Board in September 2021 determined to amend its policy regarding publication of decisions of the Board and the Property Agents Tribunal.

Board Decisions

The Board determined that when it makes a decision which it considered could educate the industry and/or stakeholders, then as previously a short de-identified case study would be published.

However, if it was in the public interest, the Board may publish a full decision or in a hybrid format other than a case summary.

Tribunal Decisions

The Board in consultation with the Tribunal determined that it would publish Tribunal decisions verbatim effective from 15 September 2021.

However, the Board exercises the right to publish a decision with redactions or in a hybrid format. In these circumstances it will be clearly indicated that it is an abridged copy.

The Board has published on its website under the heading Disciplinary Action 6 Tribunal Decisions.

The webpage provides a table which indicates the year of the decision; the parties to the matter; whether the matter was a conduct complaint referral from the Board or an Appeal of the Board's Decision and reference to the Determination/Decision. The Determination/Decision section opens to the detailed publication. The table below at figure 23 is a summary of the published Tribunal Decisions.

Figure 23

Year	Matter	Conduct Complaint or Appeal	Determination/Decision
2021	PAB v Conor James Canning	Conduct Complaint	Cancellation of Licence
2021	Adrian King v Property Agents Board	Appeal of Board Decision	Dismissed
2021	Patrick Eric Noisier v Property Agents Board	Appeal of Board Decision	Withdrawn
2022	PAB v Gregory Theodore Gottschalk	Conduct Complaint	Professional Misconduct
2022	Rochelle Davenport v PAB	Appeal of Board Decision	Dismissed
2022	PAB v Antony Peter Manton	Conduct Complaint	Unsatisfactory Professional Conduct

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Schemes of Arrangement Guarantee Fund Professional Indemnity

Schemes of Arrangement

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

A financial institution becomes “approved” by entering into a scheme of arrangement with the Board. 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 Guarantee Fund).

The Scheme of Arrangement provides that the financial institution will pay the interest at the Cash Rate Target published in Table F1 of the Reserve Bank Bulletin that is effective as at the 21st day of the month preceding the month when the interest is to accrue minus an administrative fee. The interest from these trust accounts is paid directly into the Guarantee Fund.

Approved Financial Institutions as at 30 June 2022

A real estate agent named in Part 1(1) of the Register, a property manager named in Part 2(1) of the Register or a general auctioneer named in Part 3 of the Register must not maintain a trust account with an authorised deposit-taking institution that is not an approved institution. The following are the approved financial institutions as at 30 June 2022:

- Australian and New Zealand Banking Corporation
- Bendigo Bank
- Commonwealth Bank of Australia
- Heritage Isle Credit Union
- Macquarie Bank Limited
- National Australia Bank
- Westpac Banking Corporation

Guarantee Fund Income

The income generated from statutory trust account interest has reduced significantly in past years for two reasons.

First, the amount of money held in Property Agents’ trust accounts has reduced substantially due to residential bonds being held by the Residential Deposit Authority (RDA) and the overall total balance of money held in property agent’s trust accounts has reduced.

The RDA was established in 2010 and with a transition period for residential bonds transferring when a lease agreement was established or renewed.

This meant that the majority of bonds were transferred from Property Agent's trust accounts to the RDA during 2010 to 2012.

Secondly, as the Cash Rate Target rate reduces so does the income received from Property Agents and Conveyancer's trust accounts.

In 2018 the Property Agents Board re-negotiated the administrative fee charged by approved financial institutions, reducing it from 1.5% to 0.5%. The result was that for 18 months interest was once again being paid on the balance of property agents and conveyancers trust accounts.

There has not been income received from property agent's trust accounts since the 2019-2020 reporting period however the recent interest rate increases will see income revenue to the Guarantee Fund in the 2020-2023 financial year.

Claims against the Guarantee Fund

Defalcation

In 2013 the Property Agents 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 consisted of some 132 security deposits and money owing to creditors, the total amount stolen being estimated was in the vicinity of \$135,000. As at 30 June 2022, 132 claims had been made totalling \$91,573.59. The breakdown of claims and payments by year is identified at Figure 24 below:

Figure 24		
Claims on Property Agents Guarantee Fund		
Year	No. of claims	Value
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
2018-2019	5	\$3,980.00
2019-2020	6	\$4,520.00
2020-2021	4	\$1,468.00
2021-2022	1	\$1,680.00
Total	132	\$91,573.59

Of the total \$91,573.59 of claims paid from the Guarantee Fund, \$71,026.78 has been paid to tenants, \$20,311.53 has been paid to landlords and \$1,235.28 has been paid to providers of rental assistance services.

Appointment of Manager and Receiver

There have been two circumstances which has required the Property Agents Board to appoint a manager and receiver this have been reported in detail in prior Annual Reports however the total amount claimed against the Guarantee Fund in these two circumstances was \$20,700.

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 that this cover must be provided by an insurance company approved by the Australian Prudential Regulation Authority.

The insurance cover must indemnify the property agent against any liability that the property agent may incur in respect of any loss or damage suffered by other people occasioned by any act, default, omission, neglect or defalcation by the property agent (or by any person employed by or acting on behalf of the property agent) in the course of his or her business as a property agent.

The insurance must cover claims by clients and people who are not clients of the property agent.

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.

Pursuant to Section 132 of the Act the licence of the property agent is to be taken to have been suspended during any period when the property agent does not have professional indemnity insurance.

Monitoring compliance

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.

Trust Accounting

to supervise the trust accounts of property agents;

Inspection Results 2021-2022

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

The Board's Inspector has reported to the Board that common non-compliance identified during inspections are as follows:

Regulation 6. Supervision of trust accounts
 Regulation 8. Control of trust money
 Regulation 21. Monthly reconciliations

- Opening balance not agreeing with closing balance of the prior month
- Signing the wrong reconciliation report page
- Not identifying and/ or clearing unidentified funds
- Not including all supporting documents with month end reconciliation

A Report of the inspection is tabled at a meeting of the Board in which the Executive Officer recommends the course of action that should be taken.

If breaches of legislation or irregularities are reported by the Inspector the course of action may be a request for the property agent to action a change to the trust accounting documentation or practices.

In more serious cases the Board requires the property agent to provide month end reconciliation records for review by the Inspector, which continues until the records meet the legislative requirements.

Alternatively, the Board may determine to initiate a conduct complaint with a view to disciplinary action being taken.

A total of 59 inspections were conducting during the reporting period. The majority of inspections are conducted at the authorised place of business, however for property agents based in other States and Territories a desk-top review of reconciliation documents is performed.

The map of Tasmania at figure 25 indicates the regions where the inspection occurred with the 15% for Interstate indicates desk-top review.

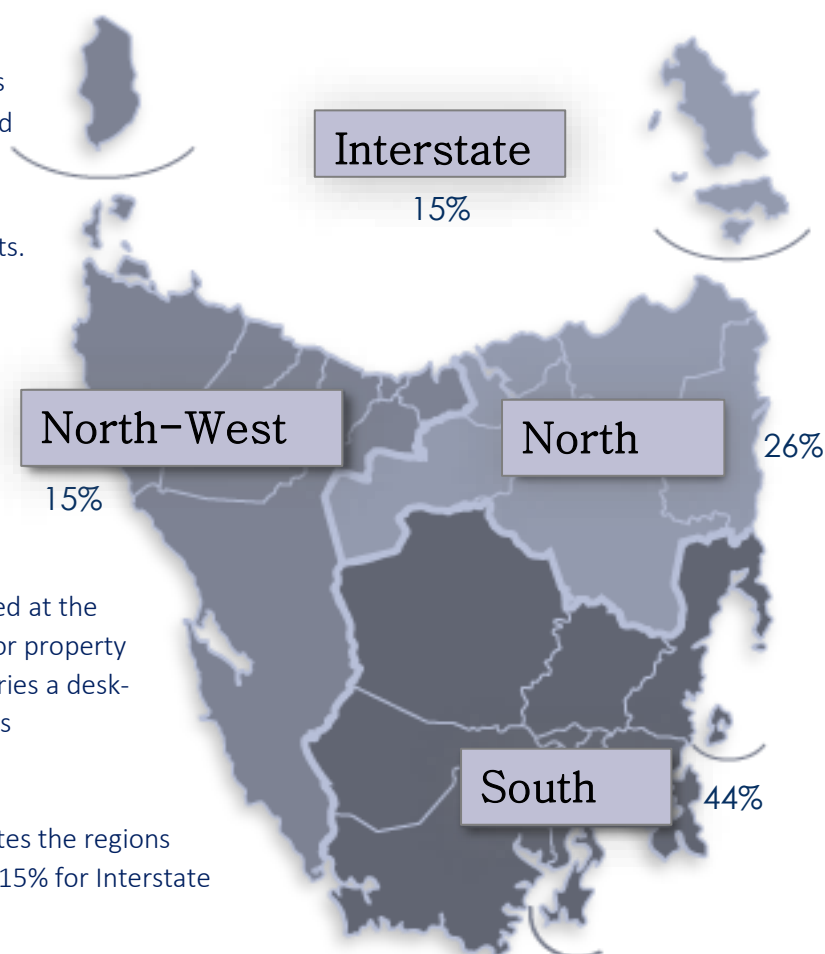


Figure 25

Audit Results 2020-2021

Property Agents have specific reporting requirements in relation to trust accounting. Property Agents are required to have each trust account audited each financial year. As the timeframe for lodgement of trust account audits is September each year the information for this annual report relates to the audit year 2020-2021.

Statistics Snapshot

There were **263 property agents licensed** to conduct business in Tasmania during the 2020-2021 financial year (the 2020-2021 Audit year).

During the 2020-2021 Audit year:

- 411 audit reports or exemptions were required to be submitted;
- 320 trust accounts were active;
- 302 Audit Reports and checklists were received;
- 71 Exemptions were received;
- 4 Audit Reports and checklists remain outstanding from the 2020-2021 Audit year;
- 31 Audit Report Exemptions remain outstanding;
- 3 Audit Reports and checklists remain outstanding from the previous reporting period;
- 50 new trust accounts were opened;
- 43 trust accounts were closed.
- A total of 82 audits reports were qualified which were held by 54 different property agency businesses.
- 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 35,000 for the 2020-2021 financial year.

The Law

The *Property Agents and Land Transactions Regulations 2017* (the Regulations) at Regulation 31 provides that a property agent must cause the trust account records kept by the property agent in an audit year to be audited by an auditor within 3 months after the end of the audit year.

Regulation 32 however provides that the requirement to have a trust account audit does not apply if the property agent provides a declaration stating that the property agent did not receive or hold trust money during the audit year (the Exemption).

The purpose of the audit is prescribed in Regulation 35 of the Regulations. In particular, it is for the auditor to report whether the trust account records were properly drawn up and kept in accordance with the Act, to report any defect or irregularity in the trust account records, that the amount in each trust account after being reconciled were sufficient to meet all the trust account liabilities at the end of the period being audited.

2020-2021 Focus

An information pack for auditors was emailed on 6 July 2021 which highlighted that month end reconciliations were the focus for the Special Purpose Audit Report and Checklist 2020-2021, in particular that the managing property agent had checked that the supporting schedules and bank statement agree to the certification document that had been signed as being complete and accurate.

A further focus was to ensure that the month end reconciliation report contained all supporting hard copy documentation. The month end reconciliation bundle of documentation should be a complete package of information.

Auditors were also asked to identify whom within the agency business can authorise/make payment from the trust account.

Auditors were reminded that it was not sufficient to conduct the audit by accessing the proprietary system. There was a requirement to view month end reconciliation documentation held by the Property Agent.

The Board's inspection program identified many property agents certify the reconciliation document as complete and accurate, however the figures contained on the page that bares the certification does not agree with the supporting schedules or bank balance.

This does not mean that the trust account has not reconciled, but it is a strong indicator that the property agent responsible for the trust account is not reviewing the documentation sufficiently to provide the correct certification.

Auditors cannot apply materiality judgment to an infringement of the Trust Accounting provision and as such are required to provide details of each qualification identified.

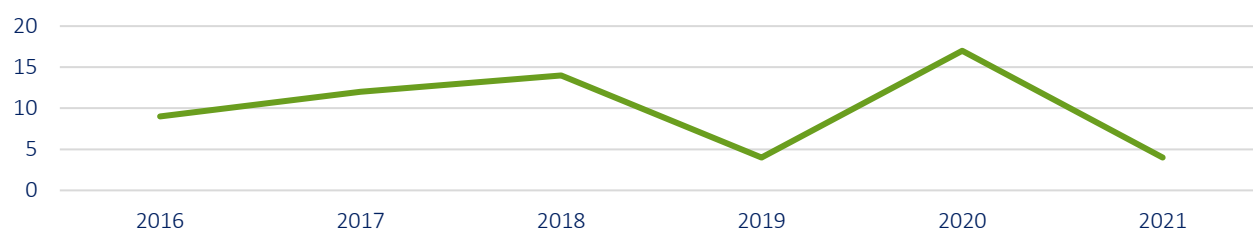
Lodgement Compliance

A total of 274 audit reports, checklists and relevant correspondence were received by the statutory deadline of 30 September 2021. A further 28 audit reports were received after that deadline. 4 audit reports remain outstanding from this reporting period and 3 audit reports remain outstanding for the 2019-2020 financial year.

71 of the expected 102 Exemptions were received. Most of the outstanding forms relate to property agents who were no longer named on the Board's Register and the Board no longer had current contact details.

Figure 26

Number of Audit Reports outstanding as at 31 October in the report year



The graph at figure 26 above demonstrates the number of audit reports that have still not been received one month after the statutory deadline. The increased number of late audit reports for the 2019-2020 audit year is attributed to COVID-19 restriction issues.

Reporting discrepancy

As part of the audit report and checklist 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 has agreed to rectify them in most instances.

Qualified Audit Reports

The following table at figure 27 indicates the number of regulations that have been breached (rather than the number of occurrences during the reporting period of the breach). For example the audit report will indicate that the property agent didn't comply with Regulation 6, that is counted as one qualification even though the property agent may not have complied with the regulations on 7 separate instances during the reporting period.

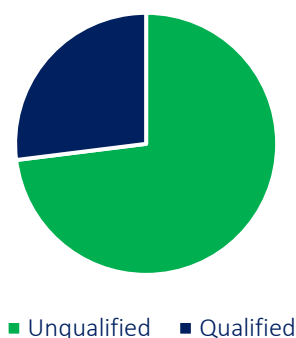
Figure 27

Trust account Reports	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021
Unqualified	135	186	194	208	220
1 qualification	32	25	33	37	48
2 qualifications	36	15	16	19	19
3 qualifications	27	9	14	15	8
4 qualifications	12	4	8	4	3
5 + qualifications	23	10	6	10	4

The annual audit process continues to be one of the key regulatory controls to assist the Board in managing its obligations over the industry under the Act. Figure 28 shows the comparison of qualified (not good) to unqualified (good) audit reports.

Figure 28

Comparison of Unqualified v Qualified Audit Reports



It is also a key factor in identifying where inspection resources can be prioritised. Alternatively, Inspection results guide auditors to ensure areas of previously identified non-compliance have been corrected. Figure 29 provides a summary of the number of trust accounts to be audited, qualified audits and any outstanding reports.

Comparative Summary of Audit Reports

Figure 29	2017	2018	2019	2020	2021
No. of Accounts to be audited	265	263	275	296	311
Qualified Reports	130	63	77	85	82
Property Agents - Qualified Reports	84	47	58	53	54
No. of audits outstanding	12	14	4	17	4
As at	31/10/2017	30/10/2018	31/12/2019	31/10/2020	31/12/2021

Trust Accounts by Use

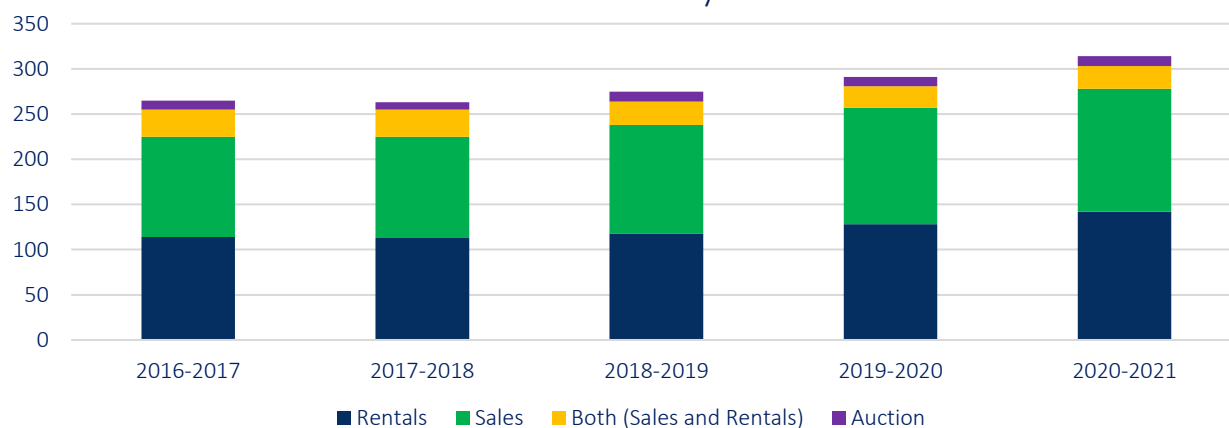
Property agents must notify the Board when opening or closing a trust account. As part of the audit process the purpose of the trust account is noted as indicated in figure 30 and 31. It is possible to categorise as rentals, sales, or both sales and rentals and auctions (this category primarily relates to licensed General Auctioneers Trust accounts).

Figure 30

No of trust accounts by use	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021
Rentals	114	113	118	128	142
Sales	111	112	120	129	136
Both (Sales and Rentals)	30	30	26	24	25
Auction	10	8	11	10	11

Figure 31

Trust Account by Use



Property Agents with multiple trust accounts

A property agent is not limited to how many trust accounts it holds.

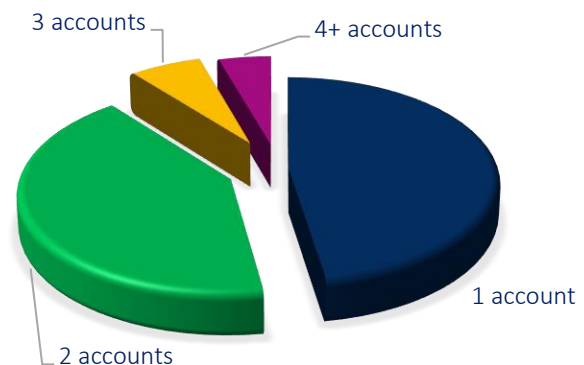
As a business decision, the property agent may determine to hold one trust account for sales and one for property management or as indicated above have all trust money held in the same account.

Other property agents determine to hold multiple trust accounts. It could be a trust account per authorised place of business or separating out commercial trust money to residential trust monies.

Currently, 84 Property Agents hold one trust account, 74 Property Agents hold two trust accounts, 11 Property Agents hold three trust accounts and 8 Property Agency businesses hold four or more trust accounts – with one business holding 10 trust accounts as shown in figure 32.

During the reporting period 43 trust accounts were closed. Of those 17 accounts were closed by property agents still conducting business; and 26 trust accounts were closed by 19 different property agents that have ceased to conduct business.

Figure 32
Trust Accounts held by property agent conducting business

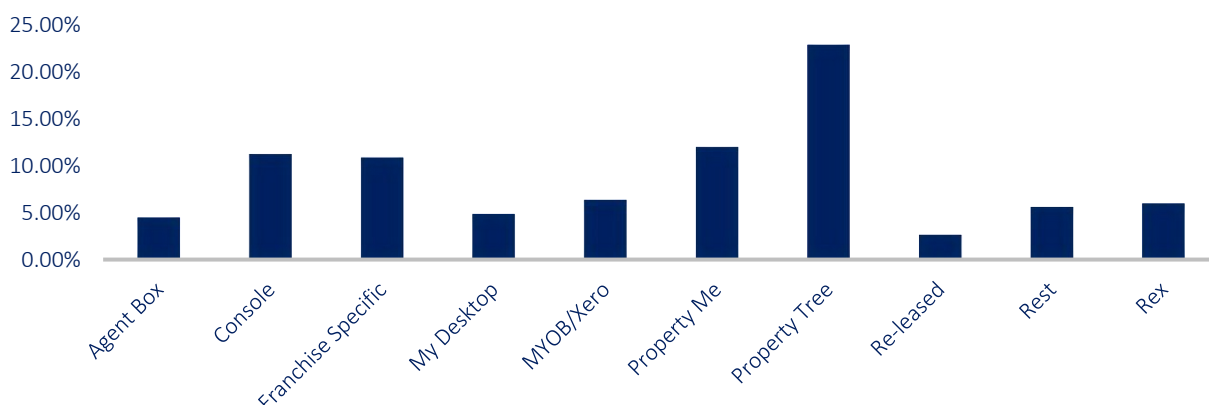


Accounting Software

Property agents use a range of different software platforms to manage their trust accounts. Most property agents use industry specific software as it incorporates both the financial compliance aspects as well as file management. Information from the Auditors indicates that 260 property agents use some form of computer software for their trust accounting requirements and 10 property agents use a manual form of trust accounting. Figure 33 below indicates the top 10 proprietary systems as a percentage of audit reports

Figure 33

10 Top Software as % of Audits



Property Management

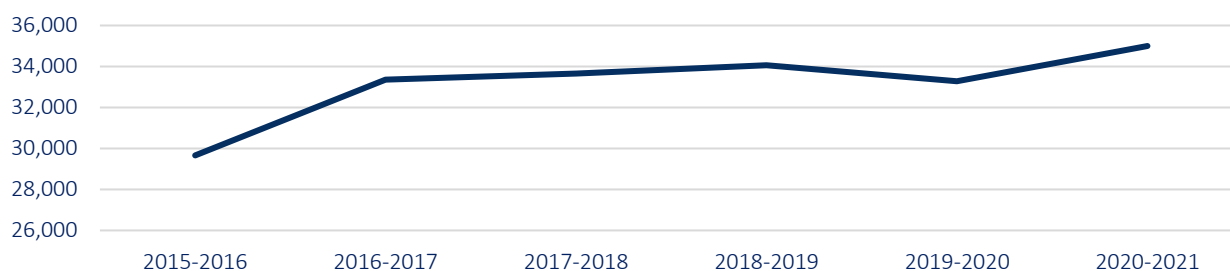
Auditors are requested to provide an approximate number of rental properties of all kinds being administered through each Property Agent's trust account. Receiving this estimated figure helps assess the size of the operational environment in each office and provides context and relevance to the materiality of the issues mentioned in the audit report. It should be noted however, if a property changes management it may be counted twice in that year.

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 are shown in the following table and at figure 34:

2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021
29,660	33,357	33,649	34,064	33,285	35,000

Figure 34

Total Properties under Management by Property Agents



The largest portfolios administered were in the following regional locations for 2019-2020 and 2020-2021.

2019-2020 Ranking	Portfolio No.	Region
1 st	1576	South
2 nd	1386	North
3 rd	1015	North
4 th	908	South
5 th	900	North
6 th	890	South
7 th	856	South
8 th	713	North
9 th	712	South
10 th	700	South

2020-2021 Ranking	Portfolio No.	Region
1 st	1576	South
2 nd	1339	North
3 rd	972	North
4 th	971	South
5 th	971	North
6 th	909	South
7 th	900	North
8 th	898	South
9 th	826	North-West
10 th	750	South

Property Agents that manage property

As reported by Auditors in the Audit Report there are currently 122 different property agent businesses that have property under management noted on the Report. 83 trust accounts receive residential bonds held prior to disbursement to the Rental Deposit Authority. There were 5 property agents that failed to comply with the *Residential Tenancy Act 1997* as they did not disburse the bonds within the 10-working day timeframe.



Statutory & Other Reporting

to monitor, identify and report to the Minister trends and issues that emerge within the property agents industry;

to perform any other function imposed on the Board by this or any other Act;

such other functions as may be prescribed

Right to Information

The Board did not receive any Right to Information requests during the reporting period.

In accordance with the *Right to Information Act 2009*, the Secretary of the Department of Justice is required to prepare an annual report on the administration of that Act. The Board is required to provide details of any Right to Information contact during the reporting period.

Australian Bureau of Statistics

The Australian Bureau of Statistics, National Data Acquisition Centre requests a Wage Price Index Survey to be completed by the Property Agents Board each quarter.

The Board was selected to represent the industry in the annual Survey of Employment and Earnings since 2018. The information collected is used in the compilation of National Accounts aggregates and in the estimation of public sector employment.

The *Census and Statistics Act 1905* authorises the ABS to ask the questions included in the survey. Under that Act the Board is obliged to provide the information being requested. The Act ensures that the information is strictly confidential and only used for statistical purposes.



Financial Statements

The Board is to keep proper accounts and records of its financial transactions and, as soon as practicable after 1 July and not later than 31 October in each year, is to prepare financial statements exhibiting a true and correct record of its financial position and transactions in respect of the preceding financial year.

Special Purpose Financial Statements

Property Agents Board
For the year ended 30 June 2022

Prepared by Scanlon Richardson Financial Group

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Board's Report

Property Agents Board

For the year ended 30 June 2022

The Board members submit the financial report of the Property Agents Board for the financial year ended 30 June 2022

Board Members

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

Board Member	Position	Date Started	Action
Ann Cunningham	Chair	14/02/2017	Resigned 30/06/2022
Belinda Webster	Member	04/07/2011	Re-appointed 13/08/2019
Adrian Kelly	Member	14/10/2013	Re-appointed 01/06/2020
Andrew Wright	Member	14/02/2017	Re-appointed 01/06/2020
Liz Rodd	Member	07/08/2017	Re-appointed 01/06/2020
Craig Mackie	Chair	01/07/2022	Appointed 01/07/2022

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.

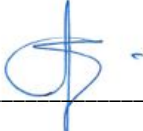
Operating Result

It is noted that surplus funds from the Property Agents Guarantee Fund were not available to the Board during the reporting period, however financial support was received from the State Government in the form of a grant for the maintenance of core regulatory functions.

The surplus/(deficit) from ordinary activities amounted to:

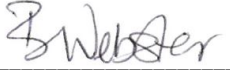
Year ended 30 June 2022	Year ended 30 June 2021
\$	\$
213,877	(254,688)

Signed in accordance with a resolution of the Members of the Board on:

A handwritten signature in blue ink, appearing to be 'C Mackie', written over a horizontal line.

Craig Mackie (Chair)

Date 27 / 10 / 2022

A handwritten signature in black ink, appearing to be 'B Webster', written over a horizontal line.

Name: **Belinda Webster** (Member of the Board)

Date 27 / 10 / 2022

Statement of Comprehensive Income

Property Agents Board

For the year ended 30 June 2022

	2022	2021
Income		
Operating activities:		
Grant Income - Cash Flow Boost	-	38,500
Grant Income - Department of Justice	552,000	-
Application Fees	50,165	49,529
Examination Fees	47,274	55,107
Fine Income Received	152,273	47,727
Late Fees Collected	6,889	10,668
Licence Fees	288,572	288,385
Miscellaneous Income	2,034	7,743
Property Agents Trust - Distributions	-	46,425
Property Agents Trust - Secretarial Fees	5,000	10,000
Non-operating activities:		
Interest	408	1,761
Total Non-operating activities:	408	1,761
Total Income	1,104,615	555,845
Gross Surplus	1,104,615	555,845
Expenditure		
Accountancy	28,210	15,060
Advertising	2,146	-
Audit Fees	3,300	3,200
Bad Debts	1,344	753
Bank Fees & Charges	855	1,307
Consultants Fees	12,880	-
Depreciation		
Dep - Leasehold Improvements	619	971
Dep - Office Equipment	6,852	6,733
Entertainment	1,467	1,331
Examination Expenses	9,934	2,686
Fines & Penalties	29	-
Inspections	27,397	18,562
Insurance	10,024	13,409
Interest Expense	-	116
Investigations	11,262	3,269
Legal Fees	131,504	72,134
Meeting Expenses - Sitting Fee	15,092	14,168
Occupancy Costs	69,518	66,436
Postage & Petty Expenses	3,152	5,364
Printing & Stationery	11,683	9,544
Provision for Employee Leave Benefits	(1,794)	(265)

The accompanying notes form part of these financial statements.

	2022	2021
Property Agents Trust Distributions to REIT		
Research & Training	-	46,425
Repairs/Maintenance/Equipment	8,923	11,548
Salaries - Board Chairman	16,979	16,979
Salaries - Ordinary	425,542	425,597
Security Shredding	324	381
Staff/Board Member Gifts	233	-
Subscriptions	2,555	2,451
Superannuation	46,945	44,897
Telephone	15,240	15,584
Travel Expenses	5,680	2,363
Tribunal Expenses	22,843	9,530
Total Expenditure	890,738	810,533
Current Year Surplus/ (Deficit)	213,877	(254,688)
Total Comprehensive Income	213,877	(254,688)

The accompanying notes form part of these financial statements.

Statement of Financial Position

Property Agents Board

As at 30 June 2022

	NOTES	30 JUN 2022	30 JUN 2021
Assets			
Current Assets			
Cash and Cash Equivalents	3	723,505	206,543
Accounts Receivable and Other Debtors	4	56,658	72,036
Other Financial Assets	5	440,000	450,000
Total Current Assets		1,220,163	728,579
Non-Current Assets			
Property, Plant & Equipment	6	34,732	19,191
Total Non-Current Assets		34,732	19,191
Total Assets		1,254,895	747,770
Liabilities			
Current Liabilities			
Accounts Payable and Other Payables	7	9,339	26,118
Current Tax Liabilities	9	14,132	2,992
Licence Fees Paid in Advance	10	548,007	247,326
Provisions	8	64,537	69,131
Total Current Liabilities		636,015	345,567
Non-Current Liabilities			
Provisions	8	21,833	19,033
Total Non-Current Liabilities		21,833	19,033
Total Liabilities		657,848	364,600
Net Assets		597,047	383,170
Equity			
Retained Surplus		597,047	383,170
Total Equity		597,047	383,170

The accompanying notes form part of these financial statements.

Statement of Changes in Equity

Property Agents Board

For the year ended 30 June 2022

	2022	2021
Equity		
Opening Balance	383,170	637,858
Increases/(Decreases)		
Net Surplus/(Deficit) for the Year	213,877	(254,688)
Total Increases/(Decreases)	213,877	(254,688)
Total Equity	597,047	383,170

The accompanying notes form part of these financial statements.

Statement of Cash Flows

Property Agents Board

For the year ended 30 June 2022

	NOTES	2022	2021
Cash Flows From Operating Activities			
Operating Activities			
Receipts from Fees and Licenses		709,410	501,770
Receipts from Property Agents Trust		5,500	62,067
Payments to Suppliers and Employees		(918,283)	(788,786)
Interest (Unrestricted) Received		408	1,761
Interest Paid		-	(116)
Other Receipts		772,023	159,010
Distributions of Property Agents Trust Receipts		(10,834)	(61,852)
Net Cash Flow from GST		(28,249)	(11,991)
Net Cash Provided By/(Used In) Operating Activities	13	529,975	(138,137)
	NOTES	2022	2021
Cash Flows From Investing Activities			
Investing Activities			
Proceeds from Term Deposit at Maturity		10,000	-
Purchase of Property, Plant and Equipment		(23,013)	-
Net Cash Provided By/(Used in) Investing Activities			
Net Cash Provided By/(Used in) Investing Activities		(13,013)	-
	NOTES	2022	2021
Cash and Cash Equivalents			
Net Increase/(Decrease) in Cash Held		516,962	(138,137)
Cash and Cash Equivalents at Beginning of Financial Year		206,543	344,680
Cash and Cash Equivalents at End of Financial Year	3	723,505	206,543

The accompanying notes form part of these financial statements.

Notes to the Financial Statements

Property Agents Board

For the year ended 30 June 2022

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 9 *Financial Instrument*; AASB 16 *Leases*; AASB 124 *Related Parties* and AASB 132 *Financial Instruments: Presentation*.

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

Leasehold Improvements	25%
Plant and Equipment	10% - 40%

(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

A provision arises if, as a result of a past event, the Board has a present legal or constructive obligation that can be estimated reliably, and it is probable that an outflow of economic benefits will be required to settle the obligation. Provisions are determined by discounting the expected future cash flows at a rate that reflects current market assessments of the time value of money and the risks specific to the liability. Any right to reimbursement relating to some or all of the provision is recognised as an asset when it is virtually certain that the reimbursement will be received.

(e) Cash and Cash Equivalents

Cash on hand includes 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*.

(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.

In the Statement of Cash Flows, the GST component of cash flows arising from operating, investing or financing activities which is recoverable from, or payable to, the Australian Taxation Office is, in accordance with the Australian Accounting Standards, classified as operating cash flows.

(i) Trade and Other Payables

Trade and other payables represent the liability outstanding at the end of the reporting period for goods and services received by the Board during the reporting period, which remain unpaid. The balance is recognised as a current liability with the amounts normally paid within 30 days of recognition of the liability.

(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.

(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.

2. Key Management Personnel Compensation

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

	2022	2021
Key Management Personnel Compensation		
Short-term Employee Benefits	139,918	139,544
Post-employment Benefits	13,885	13,098
Other Long-Term Benefits	8,342	772
Total Key Management Personnel Compensation	162,145	153,414

(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:

	2022	2021
Executive Remuneration		
Mrs Alicia Hutton - Executive Officer		
Salary (1)	122,939	122,565
Superannuation (2)	12,187	11,485
Other Non-Monetary Benefits (3)	8,342	772
Total Mrs Alicia Hutton - Executive Officer	143,468	134,822
Mrs Ann Cunningham - Chair		
Salary (1)	16,979	16,979
Superannuation (2)	1,698	1,613
Other Non-Monetary Benefits (3)	-	-
Total Mrs Ann Cunningham - Chair	18,677	18,592
Total Executive Remuneration	162,145	153,414

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

(2) Superannuation means the contribution to the superannuation fund of the individual.

(3) 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.

	2022	2021
3. Cash		
Cash at Bank	713,135	206,173
At Call Deposits	10,000	-
Exam Float	200	200
Petty Cash	170	170
Total Cash	723,505	206,543

Reconciliation of Cash

Cash 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:

	2022	2021
Cash on Hand		
Cash on Hand	713,505	206,543
Total Cash on Hand	713,505	206,543

	2022	2021
4. Accounts and Other Receivables		
Other Debtors	56,658	72,036
Total Accounts and Other Receivables	56,658	72,036

Consideration has been given to the application of AASB 9 Financial Instruments effective 1 July 2018, however no adjustment to the financial statements has been made as no provision for impairment exists, nor is there any expected credit loss.

	2022	2021
5. Financial Assets		
Investment Account	440,000	450,000
Total Financial Assets	440,000	450,000

2022

2021

6. Property, Plant and Equipment

Office Equipment

At Cost	89,563	66,551
Accumulated Depreciation	(54,831)	(47,979)
Total Office Equipment	34,732	18,572

Leasehold Improvements

At Cost	3,881	3,881
Accumulated Depreciation	(3,881)	(3,262)
Total Leasehold Improvements	-	619

Total Property, Plant and Equipment	34,732	19,191
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Movement 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 Improvements	Plant and Equipment	Total
	\$	\$	\$
Balance at 1 July 2020	1,590	25,308	26,898
Additions	0	0	0
Disposals	0	0	0
Depreciation Expense	(971)	(6,736)	(7,707)
Carrying Amount at 30 June 2021	619	18,572	19,191
Additions	0	23,012	23,012
Disposals	0	0	0
Depreciation Expense	(619)	(6,852)	(7,471)
Carrying Amount at 30 June 2022	0	34,732	34,732

2022

2021

7. Trade and Other Payables

Accounts Payable	9,339	26,118
Total Trade and Other Payables	9,339	26,118

	2022	2021
8. Provisions		
Current Provisions		
Employee Provisions - Annual Leave Entitlement	30,323	28,712
Superannuation on Annual Leave	3,184	2,871
Employee Provisions - Long Service Leave Entitlements	28,081	34,135
Superannuation on Long Service Leave	2,949	3,413
Total Current Provisions	64,537	69,131
Non Current Provisions		
Employee Provisions - Long Service Leave	19,355	16,898
Superannuation on Long Service Leave	2,033	1,690
Unclaimed Monies	445	445
Total Non Current Provisions	21,833	19,033
Total Provisions	86,370	88,164
	2022	2021

9. Tax Liabilities

GST		
GST Payable/(Refundable)	2,459	(5,210)
Total GST	2,459	(5,210)
PAYG Withholding Payable	11,673	8,202
Total Tax Liabilities	14,132	2,992

10. Income in Advance

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

11. Events after the Reporting Period

There have been no significant events recorded since the end of the financial year.

12. 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.

13. Cash Flow Information

	2022	2021
Reconciliation of cash flows from operating activities with net current year surplus		
Net current year surplus	213,877	(254,688)
Adjustments for:		
Depreciation expense	7,471	7,707
Movements in working capital		
(Increase)/decrease in accounts receivable and other debtors	15,379	184,189
Increase/(decrease) in accounts payable and other payables	(16,779)	(1,296)
Increase/(decrease) in revenue received in advance	300,681	(23,683)
Increase/(decrease) in current tax liabilities	11,140	(50,101)
Increase/(decrease) in employee provisions	(1,795)	(265)
Total Reconciliation of cash flows from operating activities with net current year surplus	529,975	(138,137)

14. Board Details

Property Agents Board
 Level 1, 15 Victoria Street
 HOBART TAS 7000

Statement by Members of the Board

Property Agents Board

For the year ended 30 June 2022

The Board has determined that the organisation is not a reporting entity and that this special purpose 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 the Property Agents Board as at 30 June 2022 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 9 *Financial Instrument*; AASB 16 *Leases*; AASB 124 *Related Parties*; AASB 132 *Financial Instruments: Presentation*.
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: 27/10/2022

Signed:



Dated: 27/10/2022

Auditor's Report

Property Agents Board

For the year ended 30 June 2022

Auditor's signature:

Auditor's address:

Dated: / /

Independent Auditor's Report

To the Members of Parliament

Report on the Audit of the Special Purpose Financial Report

Opinion

I have audited the financial report, being a special purpose financial report of the Property Agents Board (the Board), which comprises the statement of financial position as at 30 June 2022 the 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 certification by the Members of the Board (the Members).

In my opinion, the financial report presents fairly, in all material respects, the financial position of the Board as at 30 June 2022, and its financial performance and 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 (including Independence Standards)* (the Code) that are relevant to my audit of the financial statement 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.

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 the financial reporting requirements of the *Property Agents and Land Transactions Act 2016* and for such internal control as determined necessary to enable the preparation and fair presentation of a 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 relating 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 statement.

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 statement, 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.
- 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 statement 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 statement, including the disclosures, and whether the financial statement represent 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.



Jeff Tongs
Assistant Auditor-General
Delegate of the Auditor-General
Tasmanian Audit Office

28 October 2022
Hobart