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ISSUE 25

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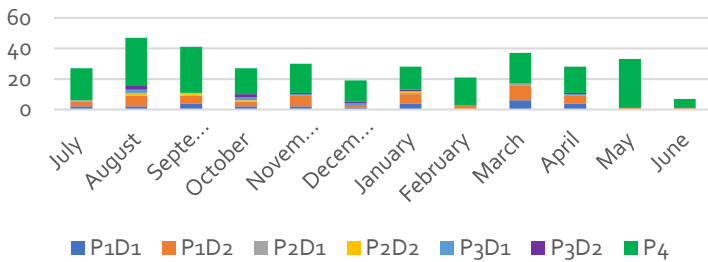
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The year that was 2017-2018... a snapshot

Licensing

A total of 2,081 licences were granted during 2017-2018. The categories are 611 Real Estate Agent licences, 35 Property Manager licences, 41 General Auctioneer licences and 1,394 Property Representative licences were granted during the period.

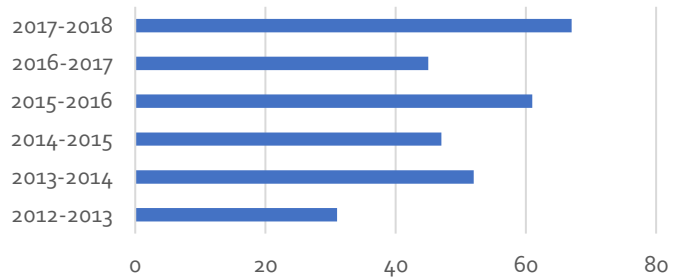
Licences granted not part of renewal period



Complaints and Investigations

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

Complaint Number by Year

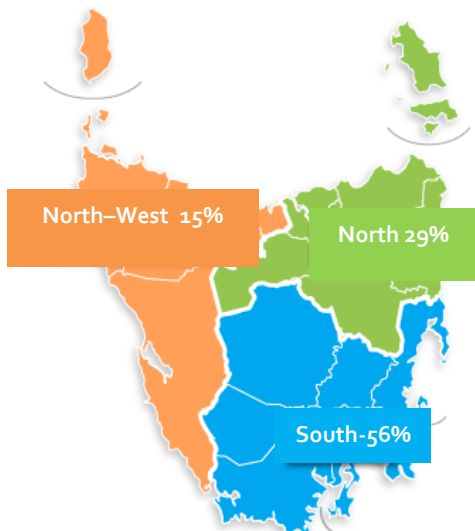


Inspections Trust Account and Statutory records

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

Trust Account Reports

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

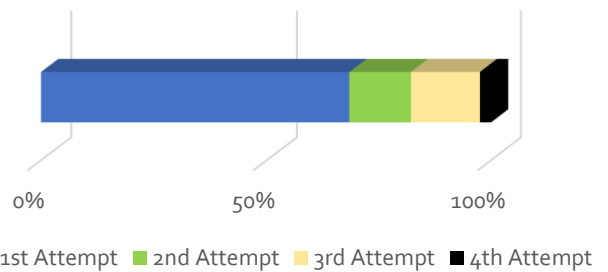


Inspections per region as a percentage of total

Examinations

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

Property Representative Examination Attempts



Annual Report

The Board’s annual report for 2017/2018 has now been tabled in the Tasmanian Parliament and a copy together with previous annual reports can be found here: propertyagentsboard.com.au/publications where you will find further information about the Board’s activities.

Examinations

The Board conducts examinations monthly in the south, north and north-west. To sit, examination candidates must register and pay a fee. Candidates will receive confirmation by e-mail of his or her examination booking which will include further information regarding the examination.

Booking an examination is completed through the Board’s website and must be received by 1:00pm on the Tuesday prior to the Thursday examination.

Candidates are notified of exam results by email after 2:00 pm on the Tuesday following the exam date.

Further information regarding the examination process can be found on the Board’s website [here](#) and will look like this:

Register for an Exam

Exam bookings must be received by the Property Agents Board office by 1.00pm on the Tuesday prior to the Thursday examination.

Examination type * ⓘ

- Property Representative
- General Auctioneer
- Enabling - sales functions
- Enabling - property management functions

Have you previously sat an exam with the Property Agents Board? *

Location *

Month * ⓘ

Attempt number * ⓘ

Enabling Examinations - last examinations in April 2019

Some property representative licences are conditioned to undertake property management functions or property sales only.

That is because under the *Property Agents and Land Transactions Act 2005* (“the Repealed Act”) a person could choose whether they undertook the qualification to become either a property consultant (sales) or assistant property manager (property management). The introduction of the *Property Agents and Land Transactions Act 2016* (the Act) created the new licence category of property representative and as a result a person was issued a licence according to their knowledge and experience.

To remove a condition from a property representative licence, the property agent needs to successfully complete an examination set by the Property Agents Board. It is known as the "enabling examination".

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

This type of examination is **only available until April 2019**, at which time a licensee will need to undertake the full licensing examination to have a condition lifted. After this date, if a property representative seeks an unconditioned licence, they will need to sit the full property representative examination.

Examination Schedule - 2019

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	
HOBART	17th	7th	7th	4th	2nd	6th	4th	1st	5th	3rd	7th	5th	12th
LAUNCESTON	24th	14th	14th	4th	9th	13th	11th	8th	12th	10th	14th	5th	
ULVERSTONE	31st	21st	21st	11th	16th	20th	18th	15th	19th	17th	21st	12th	

Property Representatives - the importance of being licensed

Many people believe that by successfully completing the property representative examination that they can be employed as a property representative without obtaining a licence. If you are undertaking regulated functions as described in *the Property Agents and Land Transactions Act 2016* (the Act), you will be required to be licensed.

Regulated *functions of a property representative* is doing all or any of the following activities while employed by a real estate agent or property manager

- (a) *inducing or attempting to induce, or negotiating with a view to inducing, people to do all or any of the following:*
- (i) *acquire or dispose of property or a business;*
 - (ii) *make an offer to acquire or dispose of property;*
 - (iii) *make an offer to acquire or dispose of a business;*
 - (iv) *enter into a contract for the acquisition or disposal of property;*
 - (v) *enter into a contract for the acquisition or disposal of a business;*
- (b) *negotiating the leasing or letting of property;*
 (c) *collecting rents for property that is leased or let;*
 (d) *managing property that is leased or let*

Employees who work in a purely administrative capacity who do not undertake any regulated functions do not need to be licensed. This limits what they can do and they also must be careful of the position title used.

A person who does not hold a valid license **MUST NOT** be shown/advertised or represented that he or she can undertake regulated functions until the appropriate licence has been issued to the person and states whom the employer is.

Titles such as "Associate", "Property Assistant" "Personal Assistant", "home finder", "property management", "sales associate", "property officer", "Asset Manager" to the average person means that you work in this industry.

Therefore, the onus is on the property agent to ensure that he or she has been notified that their licence has been issued before he or she commences undertaking regulated functions or changes employers.

The employing property agent must also ensure that the person holds a valid licence before undertaking regulated functions or holding that person out that they hold a valid licence.

National Police Checks - Board Policy

The Property Agents Board must be satisfied that all applicants hold relevant qualifications and is a fit and proper person to hold a property agent licence.

In order to satisfy the fit and proper person test, the Board with reference to Section 16 of the *Property Agents and Land Transactions Act 2016* (the Act), has implemented a policy determined as follows:

For all Tasmanian residents seeking to apply for a licence, the Board will only accept National Police Record checks issued by Tasmania Police.

For all interstate applicants who do not have a Tasmanian return address or are not currently residents in Tasmania, those applicants will need to apply to the authority in their State or Territory who holds a similar position to the Tasmanian Commissioner of Police.

Links to obtaining a National Police Check from the relevant approved entities are on the Board's website [here](#)

If a National Police check certificate is provided from other police check providers, it will not be accepted by the Board for licensing purposes and you will have to seek one from an approved entity which may cause delays in processing your application.

The Board's policy is that a National Police Check record that accompanies an application must be issued no longer than 3 months before the date that the application is lodged with the Board.

In completing the relevant form for the National Police Record check, the purpose category for seeking the certificate is "general employment".

License application processing timeframes

Board staff strive to provide a prompt and efficient service and are aware that applicants want to start working as soon as practicable!

But adequate time should be factored in when negotiating a contract of employment or when opening a new business or another authorised place of business.

The Board has a service indicator that all applications once deemed complete will be processed within 10 working days.

Asset Manager

Personal Assistant

Buyers Agent

Property Officer

However, the time frame of approval and granting licence applications is usually within 5 working days due to the diligence of our efficient staff.

The assessment of an application cannot commence until the application is deemed complete and that includes all supporting documentation is received, and fees paid.

However, if an application is more complex, or requires discretionary approval it will take more time and the applicant will be advised.

Registers - Published

Two registers are published on the Board's website. These are usually updated weekly.

One lists the Property Agents conducting business, the other is a list of all individuals with a licence. This includes real estate agents, property managers, general auctioneers and property representatives. The information includes the person's name, the business that they work for, the business address and the type of licence held.

Preferred or nickname

Some property agents are using a different name to that recorded in the Board's Registers. This could be due to change in marital circumstances (reverting back to a maiden name or taking on a partner's surname) or shortening a first name or surname, using a nickname or another preferred name in their marketing/advertising.

As an example, if I was known as Ali Hutton, I could request Ali to be put in the register – that way I could use Alicia Hutton or Ali Hutton in marketing or advertising. The Register and licence would read: Alicia (Ali) Hutton

A shortened or preferred name can be used if it is entered into the Board's Register.

The Board invites property agents to confirm a preferred name by using the changing details form and the Board's Registers will be amended accordingly.

However, if a property agent seeks to change his or her name due to a change in marital circumstances, evidence of a name change such as a copy of a valid passport or current driver's licence is still required.

Carrying on Business?

The use of social media is a great medium to get a message out there and market yourself and your business. But a word of caution: property representatives must not call themselves a "real estate agent" or "property manager".

These are prescribed terms and to say or imply that you hold that licence when you do not is misleading and deceptive, and you may be in breach of the Act for holding yourself out to be able to carry out work that you are not licensed to do so.

The term PROPERTY AGENT may be used as this term includes a real estate agent, property manager, general auctioneer and property representative.

Further, unless a person is named in the Board's registers as being able to conduct business, he or she must not state or imply that they have their own agency business eg "John Smith Property" or "John Smith Real Estate". This includes terminology used on Facebook pages. The Board has published Social Media Guidelines to assist the Board. These guidelines together with other useful information is available on the Board's website [here](#)

Mutual Recognition

In Australia, each state and territory administer its own occupational licences for property agents. The basic principles under the *Mutual Recognition Act 1992* is that a person holding a licence in one jurisdiction is entitled to apply for a licence in another jurisdiction without the need to undergo further testing or examination.

It should be noted that obtaining a licence under mutual recognition is not an automatic process. Individuals must apply for recognition of their existing licence/s by lodging a mutual recognition application which can be found on the Board's website and pay the applicable fees and provide other supporting documentation.

Licence replacement fee

A property agent who requests a change of details to the Register will be notified by email once the Board Register has been updated to reflect that change – there is no cost associated to make a change.

However, if a property agent requires a new copy of his or her licence to reflect the change, a fee will be imposed to produce an amended or a replacement licence during a licence period (1 July - 30 June). The current licence replacement fee is \$15.80.

Continuing Professional Development (CPD)

All property agents are required to complete a minimum of 8 points of Board approved CPD from 1 July 2018 to 30 June 2019. The Board maintains a register of approved CPD activities.

As mentioned previously, the Board implemented a new CPD Policy effective from 1 July 2018 applicable for the 2018-2019 licence year onwards.

This policy provides advice to the property agents industry in understanding the Board's Continuing Professional Development (CPD) requirements and reinforces the importance of CPD activities as a means of maintaining personal and professional confidence and proficiency.

In the approval process, the Board will characterise CPD activities with the introduction of the concept of industry specific and non-industry specific CPD activities. Under the Policy, property agents can only claim a maximum of 2 points of non-industry specific CPD towards their minimum 8 points of CPD.

Further in the approval process CPD is also assessed as to whether it is provided by an internal provider or an external provider to the organisation.

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

The requirement under the policy is that each property agent must undertake a minimum of 2 hours of CPD activity with an external provider.

A copy of the full policy can be found [here](#) which all property agents should read to ensure that they understand their CPD requirements.

If you have any other queries regarding CPD, please do not hesitate to contact the Board.

Renewals - Boy Scout reminder 'be prepared'

As all property agents will be aware, the licence period is from 1 July to 30 June.

The renewal process for licences to be issued for the following licence year commences in late March/early April of each year.

With property representatives now included in renewals, this has necessitated the Board to have the most efficient and expeditious renewal process and procedures.

Board staff have already started preparing for the renewal process and we ask that you consider the following issues to prepare for the renewal process too.

Licensing information up to date?

Please ensure that you advise the Board of any changes to your staff/personal details. Having the most up to date information will greatly assist the Board in the renewal process and avoid unnecessary delays if information is sent to wrong addresses and wrong employers.

CPD Review

As you would be aware, all property agents must complete a minimum of 8 CPD points in each licence year. Take the opportunity to review your CPD.

How many points do you have?
Have you recorded the CPD codes for the CPD activities that you have done?

Incomplete or incorrect details on the application for licence - renewal form will be returned for you to complete.

Think about what courses that you would like to do and notice that there are additional requirements in relation to the characterisation of a CPD course.

Property agents have until 30 June to complete CPD, but we do encourage all property agents to complete their CPD by 30 April each year and include it on their application for licence – renewal form when renewals are due as this streamlines the renewal process.

More information can be found by reviewing the CPD policy effective 1 July 2018 which can be found on the Board's website [here](#)

Licence conditions - Check them out

Take some time out now to ensure that you have complied with or are on track to comply with any other condition that has been placed on your licence.

Applying for a Real Estate Agent Licence

Diploma in Property?

A Diploma is a qualification not a licence. There is a misconception that a Diploma automatically qualifies a person as a real estate agent or property manager.

A qualification is not the same as a licence - a person must apply for and be granted a licence. Don't waste your efforts, apply for the appropriate licence category as soon as you receive the qualification.

The Experience Factor - Real Estate Agent

You also need to demonstrate that you have recent and relevant experience. If you have worked in the property industry in Tasmania, you can satisfy the Board by providing evidence that during the last 5 years before your application is lodged that you have been in full-time employment as a property manager or property representative or have periods of part-time employment that total 2 years within the last 5 years.

If you are applying from another jurisdiction, you need to satisfy the Board that you have been employed full time in real estate agency business in another State or a Territory of Australia for a total period of at least 2 years during the 5-year period immediately preceding the licence application; and that you have sufficient knowledge and experience of real estate agency business to be able to carry on that business.

The Application Process - Real Estate Agent

Each application must be in the prescribed form, with the prescribed fees and that the person is a fit and proper person with the appropriate qualifications and experience.

In order to satisfy the fit and proper person test, the Board has determined that all Tasmanian residents must obtain National Police Record checks issued by Tasmania Police.

Further information including the 2018/2019 application form can be found on the Board's website [here](#).

Important changes to licence fees

The Board at its meeting in November 2018 determined to remove half year fees and introduce a reduced licence fee for applications received from 1 April - 30 June (during the renewal period). This new fee structure is effective from 1 January 2019.

This means that the previous fee structure of half-yearly fees has been abolished to be replaced with a reduced licence fee. Applicants who seek to commence working in the period 1 July – 31 March will be required to pay the full licence year fee.

National Training package changes

As has been noted in a previous Information Bulletin (No.24) vocational educational training (VET) packages in Property Services are under review as commissioned by the Australian Government and it is now at Stage 4 Quality Assurance.



There are three qualifications under review:

- Cert III in Property Services which has been developed as entry into the industry at an administration level;
- Cert IV in Property Services which has been fully redeveloped to be a licensing qualification;
- Diploma in Property Services which has been fully redeveloped to provide a professional development pathway and to house higher skill endorsement.

The outcome of review will change the qualification pathways and it is likely to impact a property agent's ability to obtain a real estate agent or property manager licence. Therefore, it is in your best interests if you have a Diploma in Property Services to apply for the relevant category of licence if you have not already done so.

Cybercrime - Let's talk about it (again!)

The Board has raised the issues of cybercrime in a previous information bulletin (No.24). However, as more incidents of fraud have been reported to the Board since the last Information Bulletin, the Board believes that these issues should be canvassed again.

Due to the volume of transactions and the amount of money involved in property transactions, property agents are an increasing target for cyber criminals. The most applicable types of cybercrime and fraud that affect the Property Agents industry are as follows:



Hacking

Hacking occurs when a scammer gains access to your personal information by using technology to break into your computer, mobile device or network.



Identity theft

Identity theft is a type of fraud that involves using someone else's identity to steal money or gain other benefits.



Phishing

Phishing scams are attempts by scammers to trick you into giving out your personal information such as your bank account numbers, passwords and credit card numbers.



Remote access scams

Remote access scams try to convince you that you have a computer or internet problem and that you need to buy new software to fix the problem.

Recently the Board has dealt with situations where a property agent believed that they were transferring money into a customer's account when in fact the customer's identity had been stolen and a request was made for a transfer of money into an account that was not their clients.

This means that property agents must also not ensure that they have effective cyber identification systems in place but should also be vigilant in identifying that a customer or client may be the subject of cybercrime and fraud.

A moment to check the validity of emails and bank account details or reverting to making payment through a bank cheque are simple ways to ensure the funds are going to the intended recipient.

There are a few simple steps to consider that could not only save your business financially but avoid the stress of having to deal with a matter through insurance claims or responding to disciplinary proceedings. The following tips may assist you:

- Do not use words such as "money", "trust account", "bank account", "deposit" etc in the subject line of the email as this will alert a scammer that there may be a transaction of interest that they may be able to intercept.
- Always remain alert if there are different financial details provided by a customer/client/other agency to those which have been previously provided and follow up.
- Introduce a dual authorisation/verification system for the payment of monies. For example, do not just reply to the same email address if you are concerned. Contact the customer/client through previous contact details that you have. Be aware that contact details contained in emails that ask for money to be deposited into a particular account could be false and a telephone number that have divert a call to the scammers to verify their identity.
- Ensure that you have robust systems in place and IT policies that can identify if your systems were compromised and act promptly to remedy any breach if found. Maintain good IT health by changing your passwords frequently and undertaking virus scans.
- Educate clients and customers that they must be vigilant to fraud as well. Instruct clients/customers to phone if they receive an email requesting money be sent to a particular account to verify its authenticity.

Be aware that there may be implications of cybercrime if data has been disseminated due to a breach arising from cybercrime as depending on the circumstances you may be required to notify other authorities.

The following websites may also be useful in providing assistance and the consequences of data breaches to your business and general information on protecting your business from cyberfraud by visiting the following links: www.staysmartonline.gov.au/protect-your-business www.oaic.gov.au/privacy-law/privacy-act/notifiable-data-breaches-scheme www.acorn.gov.au

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Trust Account Report

If a property agent who conducts business holds money in trust the Property Agent is required to lodge with the Board by 31 January 2018 a Trust Account Report for the six months ended 31 December 2018.

A separate Report must be completed for each trust account held.

The Trust Account Report is for completion by the managing Property Agent named on the Board's Register. Copies are available on the Board's website [here](#).

Warning – A fee of \$72.70 applies for late lodgement of each Trust Account Report.

Results of Special purpose Audit Report and Checklist for the year ended 30 June 2018

The focus of this year's Audit was month end reconciliation processes.

Specifically, auditors were to ensure that the opening balance agreed to the prior month's closing balance and that the managing property agent was signing the correct reconciliation page. 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.

As at 30 June 2018 there were 229 property agents licensed to conduct business in Tasmania and of those 161 hold money in Trust. A total of 263 trust accounts were held during the 2017-2018 period. The following table indicates the number of accounts to be audited, number of qualified reports etc.

	2014	2015	2016	2017	2018
No. of Accounts to be audited	241	239	242	265	263
Qualified Reports	20	34	54	130	63
No. of Property Agents with Qualified Reports	17	20	35	84	47
No. of audits outstanding	3	1	9	12	14
As at	28/2/2015	18/11/2015	31/10/2016	31/10/2017	30/10/2018

The following table indicates the number of qualifications per audit report for this year (as at 31 October 2018) compared with the last three years.

Trust account Reports	2014-2015	2015-2016	2016-2017	2017-2018
Unqualified	139	178	135	186
1 qualification	47	18	32	25
2 qualifications	16	15	36	15
3 qualifications	12	3	27	9
4 qualifications	12	1	12	4
5 + qualifications	12	18	23	10

The approximate number of rental properties of all kinds, which includes some car parks and holiday rentals, managed by all Property Agents throughout the State totalled 33,649 for the 2017-2018 period.



name in respect of a property agent conducting business, means the name shown in the Register - being the business name.

authorised place of business, means the address in the Register where the property agent may carry on business.

As an example, if the Board was a licensed real estate agency business. Any publication would have included the words:

Property Agents Board (as the name)
Level 1, 15 Victoria Street, Hobart (as the authorised place of business).

Advertising signs on land other than that being sold or leased

It has been brought to the Board’s attention that some property agents are erecting advertising signs on public/crown land.

The Board is aware that to do so may contravene laws, regulations or Council by-laws.

Property agents should also be aware that doing so may also cause them to be in breach of the provisions of the Code of Conduct (the Code), specifically clause 11 (2)(b).

Clause 11 of the Code states as follows:

11 Advertising and marketing

....

(2) A property agent –

(a) must not erect a sign on a property or business, other than the property or business being sold or leased by the property agent, if the erection of the sign has not been authorised by the owner of the property or business on which the sign is erected; or

(b) must not erect a sign on a property or business if the erection of that sign would contravene any applicable law, regulation, by-law or planning scheme; or

...

Please ensure that you are entitled to erect advertising signs on land and ensure that you meet the requirements as stated in any applicable law, regulation, by-law or planning scheme when doing so.

Advertising - the business name and address

When a property agent publishes an advertisement in connection with the business, the advertisement must contain both name and the address of the authorised place of business.

Further the Code of Conduct at clause 11 (2) provides a property agent must ensure that, as far as reasonably practicable, any advertising or promotional material (including any material in any social media post or advertisement) and any other sign, notice or advertisement includes a clearly legible statement of the name and address of the property agent’s business in respect of which the property agent is licensed.

This provision applies to all advertisements regardless of the medium used to advertise. There are a number of property agents that are advertising without this information.

Board's Website

The Board continually reviews, updates and improves the contents of its website to provide the most up to date information for the property industry on property regulation matters in Tasmania.

The Board recommends all property agents regularly access the website to keep informed of latest developments.

Your feedback is important to us and if you have any suggestions for improvement on the website we look forward to receiving your views via our contact us enquiry form which can be located [here](#).

Act and Regulations

The legislation referred to in this information bulletin is the *Property Agents and Land Transactions Act 2016* (the Act) and the *Property Agents and Land Transactions Regulations 2017*.

These came into effect on 1 April 2017.

Code of Conduct

Version 3 of the Code of Conduct came into effect on 1 July 2018. A link to the current version is available [here](#).



*Merry Christmas,
Boas Festas! Joyeux Noel,
Srećan Božić, 聖誕快樂, Häid Jõule
Geseënde Kersfees, Veselé Vánoce, Nadolig Llawen*

สุขสันต์วันคริสต์มาส

Selamat Hari Krismas

or BAH Humbug

Season's Greetings

The Board together with its staff wish you a Merry Christmas and a happy, healthy and prosperous 2019

Christmas Break

The Board Office will be closed from midday Friday 21 December 2018 until Monday 7 January 2019.

For matters which require urgent attention during this period, the Executive Officer may be contacted on 0412 608 459.