



**BRB** BUILDERS'  
REGISTRATION  
BOARD  
OF WESTERN AUSTRALIA

# ANNUAL REPORT

1 July - 28 August 2011





## Foreword

It is my pleasure to present the final report of the Builders' Registration Board of Western Australia that reports on the operations and performance of the Board between 1 July and 28 August 2011.

On 29 August 2011, the introduction of new building services legislation repealed the *Builders' Registration Act 1939* and abolished the Builders' Registration Board and Building Disputes Tribunal, introducing a new Building Services Board administered by the Building Commission, a division of the Department of Commerce. Staff and resources have been transferred to the Building Commission which aims to modernize building regulation through the consolidation of licensing and building standards and the provision of a new dispute resolution services.

In accordance with the transitional provisions of *Building Services (Registration) Act 2011* the Building Disputes Tribunal will continue to deal with any proceedings where a hearing has commenced and will be administered by the Building Commission.

## Statement of Compliance

In accordance with section 121 of the *Building Services (Registration) Act 2011* I hereby submit to the Minister for Commerce for tabling in Parliament, the Annual Report of the Builders' Registration Board of Western Australia for the period between 1 July and 28 August 2011.

The report has been prepared in accordance with section 23A and 23B of the *Builders' Registration Act 1939*.

Peter Gow  
BUILDING COMMISSIONER

Dated this 30<sup>th</sup> day of November 2011

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## OVERVIEW

### Executive Summary

Between 1 July and 28 August 2011, a key consideration for the Board continued to be the planning and preparation of the Board's amalgamation with the Building Commission.

In addition the Board maintained focus on providing a regulatory and dispute resolution service to the community that included maintaining a register of 6,667 builders, processing 89 applications for registration, issuing 258 owner-builder certificates, and carrying out 66 building inspections.

The Board also completed 72 investigations into alleged offences against the *Builders' Registration Act 1939* and the *Home Building Contracts Act 1991*, referred five builders to the State Administrative Tribunal for disciplinary action, and took six proceedings in the Magistrates Court.

The Building Disputes Tribunal received 71 complaints, issued 41 orders to remedy, and 44 orders to pay valued at \$737,733.31.

During the reporting period, the Board contributed to raising community awareness of the commencement of the *Building Services (Registration) Act 2011* and the *Building Services (Complaint Resolution and Administration) Act 2011*.

## Operational Structure

### Enabling Legislation

The Builders' Registration Board is established under section 5 of the *Builders' Registration Act 1939*.

### Legislation Administered

The Board is responsible for administering the *Builders' Registration Act 1939* and the *Home Building Contracts Act 1991*.

Other legislation that the Board must comply with is located in the Other Legal Requirements section of this report.

### Responsible Minister

The Minister responsible for the administration of the Builders' Registration Board is Hon. Simon O'Brien MLC, Minister for Commerce.

### Area of Jurisdiction

The Board's area of jurisdiction encompasses 122 of the 139 local governments in the State, but in some instances only major town sites.

The provisions of the *Home Building Contracts Act 1991* apply to the whole of Western Australia.

#### *Indian Ocean Territories*

A service delivery arrangement between the Commonwealth Government and the Board was entered into on 31 May 2007 and renewed on 21 December 2009 to enable the Board to provide dispute resolution services to the Christmas and Cocos (Keeling) Islands.

### The Board

The Board consists of a chairperson and six members nominated by the Minister for Commerce and appointed by the Governor of Western Australia.

### Organisational Structure

As at 28 August 2011, the Board had 63 established positions, of which seven were temporary positions and none were vacant. The organisational chart is at Appendix A.



## Strategic Objectives

The Board's objectives are to ensure the highest possible standards of building for the community by the maintenance of appropriate levels of entry skills for builders, industry compliance with legislative obligations and the provision of an efficient, cost effective and impartial building dispute resolution service to the community.

These objectives are carried out within the framework of the following four service areas:

- Registration
- Compliance
- Dispute Resolution
- Education and Awareness

## Shared Responsibilities with Other Agencies

The Department of Commerce shares the responsibility of providing education and awareness to consumers, and makes decisions about applications received from owner-builders seeking to sell or build again before the prescribed time limitations.

Local governments enforce the provisions of section 4A of the *Builders' Registration Act 1939* in processing and issuing building licences.

## REPORT ON OPERATIONS

### Registration

#### Key Activities

To enable the Board to deliver positive outcomes in the area of Registration, the following activities are undertaken:

- Receive and assess applications for registration and refer them to the Board for determination.
- Maintain a register of registered builders and ensure the integrity of that register.
- Monitor the appropriateness of the assessments undertaken by applicants for registration who have not completed the Board's prescribed course of training.
- Process owner-builder statutory declarations and issue appropriate certification.
- Represent the Board before the State Administrative Tribunal to maintain the integrity of the registration system.

#### The Register of Builders

Section 8(1)(b) of the *Builders' Registration Act 1939* requires the Board to compile and keep a Register of Builders containing the names, addresses and qualifications of builders admitted to the Register.

As at 28 August 2011 there were 6,667 builders registered with the Board, comprising 4,680 individuals, 1,687 companies and 300 partnerships.

The Register is published on the Board's website and is available to be downloaded free of charge in PDF format. The Register can also be purchased from the Board in excel format.

### Applications for Registration

During the reporting period, the Board received 89 applications for registration. Of those, 37 were approved, two were refused, 49 were pending referral to the Board, and one was withdrawn by the applicant.

Applications were received under 12 categories as listed below:

CATEGORY OF REGISTRATION	APPLICATIONS RECEIVED
	<b>1 JULY - 28 AUG 2011</b>
Individuals:	
Examinations	35
Manager/Supervisor	7
Experience elsewhere than in Western Australia	6
Experience outside the area of the Act in Western Australia	0
Architect	0
Engineer	0
Australian Institute of Builders	1
Australian Institute of Mining and Metallurgy	0
Companies	22
Partnerships	0
Temporary Licence	1
Mutual Recognition	17
<b>TOTAL</b>	<b>89</b>

### Applications for Termination of Suspension or Reinstatement of Cancelled Registration

During the reporting period, one application was made to the State Administrative Tribunal for registration to be reinstated or conditions removed. The application was subsequently withdrawn by the applicant.

## Review of Board Decisions

A person who is dissatisfied with the Board's decision in respect of an application for registration may apply to the State Administrative Tribunal (SAT) for a review of that decision. During the reporting period, the SAT did not receive any applications to review the Board's decision to refuse registration.

## Owner-Builders

The *Builders' Registration Act 1939* (the Act) enables a person who is not a registered builder to construct for themselves a dwelling house or a building comprising two dwellings on ground level (commonly referred to as a duplex). Such a person is known as an "owner-builder".

During the reporting period, the Board issued 258 owner-builder certificates relating to the construction of residential dwellings.

The Act also provides that the Board may approve a person who is not a registered builder to construct for himself an industrial building. This recognises that certain specialised types of industrial buildings may be competently erected by persons having skills confined to that particular type of construction, whilst not possessing the experience or qualifications necessary to be recognised as registered builders.

During the reporting period, the Board did not receive any applications to construct a specialised type of industrial building.

The restrictions imposed on owner-builders by the Act are:

- the person applying for the building licence must furnish the Board with a Statutory Declaration verifying that no other building licence has been obtained from any local government within the preceding six years; and
- the land on which the building is constructed shall not be sold or otherwise disposed of within three years of the date of when the building licence was issued.

The Minister for Commerce or delegate may, on receipt of a written application, give consent to vary either of these restrictions.

During the reporting period, there were 14 applications made by owner-builders, which included four applications to build again within the prescribed six-year period and ten applications to sell. The following table provides details of how those applications were decided:

APPLICATIONS TO BUILD	1 JULY - 28 AUG 2011	APPLICATIONS TO SELL	1 JULY - 28 AUG 2011
Approved	4	Approved	10
Refused	0	Refused	0
Pending	0	Pending	0
Lapsed	0	Lapsed	0
Withdrawn	0	Withdrawn	0
<b>Total</b>	<b>4</b>	<b>Total</b>	<b>10</b>

## Compliance

### Key Activities

To enable the Board to deliver positive outcomes in the area of Compliance, the following activities are undertaken.

- Receive complaints and other notifications, assess and investigate where justified in accordance with resources and priorities.
- Review and assess Building Disputes Tribunal complaint files for potential breaches of legislation.
- Conduct audits of registered builders to assess compliance with regulatory requirements.
- Assess industry compliance with building codes and standards by undertaking random building inspections.
- Bring proceedings before the State Administrative Tribunal and Magistrates Courts for alleged breaches of the *Builders' Registration Act 1939* and the *Home Building Contracts Act 1991*.

### Compliance Audits and Surveillance

Compliance audits are undertaken to help maintain community confidence in the building industry and to reduce the number and cost of complaints for builders and owners. The audits aim to identify areas of a builder's non-compliance with the *Builders' Registration Act 1939* and the *Home Building Contracts Act 1991* and provide information and education to assist them to comply.

One registered builder was audited during the reporting period with minor breaches identified. Eighty-eight building sites were visited, of which 96 per cent were found to comply with legislation. No infringement notices were issued.

## Investigations

During the reporting period, the Board completed 72 investigations into offences against the *Builders' Registration Act 1939* and *Home Building Contracts Act 1991*. As at 28 August 2011, 16 matters were awaiting investigation.

INVESTIGATIONS COMPLETED		
NO. OF INVESTIGATIONS	ACT* AND SECTION	DESCRIPTION +
15	BRA Section 4	Unregistered building and/or holding out to be a registered builder
1	BRA Section 10AA	Failure to ensure building work is managed and supervised
12	BRA Section 12A4	Failure to comply with an order of the Building Disputes Tribunal
20	BRA Section 13(1)(c)	Negligence/incompetence or convicted of BRA offence
1	BRA Section 13(1)(ca)	Failure to manage and supervise as required
2	BRA Section 13(1)(da)	Harsh/unconscionable/misleading conduct
1	BRA Section 13(1)(ea)	Failure to comply with condition of registration
6	HBCA Section 4	Contracts and statutory notice for the home owner
1	HBCA Section 7(3)	Non complying variations
10	HBCA Section 10	Deposits and progress payments
1	HBCA Section 14	Cost plus contracts
1	HBCA Section 17(6)	Failure to comply with an order of the Building Disputes Tribunal
1	HBCA Section 25C	No home indemnity insurance

\* BRA = *Builders' Registration Act 1939* and HBCA = *Home Building Contracts Act 1991*

+ *primary allegation being investigated*

As at 28 August 2011, there were 60 investigations in progress:

INVESTIGATIONS IN PROGRESS		
NO. OF INVESTIGATIONS	ACT* AND SECTION†	DESCRIPTION †
11	BRA Section 4	Unregistered building and/or holding out to be a registered builder
1	BRA Section 4A	False representation to local government
19	BRA Section 12A(4)	Failure to comply with an order of the Building Disputes Tribunal
1	BRA Section 13(1)(ba)	Insufficient material and financial resources
8	BRA Section 13(1)(c)	Negligence/incompetence or convicted of BRA offence
5	BRA Section 13(1)(ca)	Failure to manage and supervise as required
2	BRA section 13(1)(d)	Fraudulent conduct
4	BRA Section 13(1)(da)	Harsh/unconscionable/misleading conduct
1	BRA Section 13(1)(ea)	Failure to comply with condition of registration
2	HBCA Section 4	Contracts and statutory notice for the home owner
4	HBCA Section 10	Deposits and progress payments
2	HBCA Section 17(6)	Failure to comply with an order of the Building Disputes Tribunal

\* BRA = *Builders' Registration Act 1939* and HBCA = *Home Building Contracts Act 1991*

† *primary allegation being investigated.*

Matters that are not referred for disciplinary action or prosecution may be discontinued for reasons such as:

- formal warning issued
- insufficient evidence
- charges withdrawn
- unable to locate defendant
- out of time to prosecute

## Prosecutions and Disciplinary Action

During the reporting period, the Board took prosecutions / disciplinary action against 11 persons/entities for offences against the *Builders' Registration Act 1939* and the *Home Building Contracts Act 1991* as shown in the table below:

JUDICIAL FORUM	MATTERS IN PROGRESS AS AT 28/08/11	MATTERS DETERMINED AS AT 28/08/11	TOTAL
Magistrates Court	4	2	6
State Administrative Tribunal	4	1	5
<b>TOTAL</b>	<b>8</b>	<b>3</b>	<b>11</b>

## Board Referrals to the State Administrative Tribunal

During the reporting period, the Board referred 5 matters to the State Administrative Tribunal (SAT) for disciplinary action under section 12D of the *Builders' Registration Act 1939*. Of these one was required to pay the Board's costs only. As at 28 August 2011, there were four matters pending. Details are set out in the table below:

MATTERS DETERMINED BY THE STATE ADMINISTRATIVE TRIBUNAL				
NAME	SECTION OF BRA*	DATE DETERMINED	FINE \$ / RESULT	COSTS ORDERED \$
BGC Residential Pty Ltd	13(1)(ca)	10/8/11	Reprimanded and ordered to pay the Board's costs.	750.00
<b>TOTAL</b>				<b>750.00</b>

\* BRA = *Builders' Registration Act 1939*

## Prosecutions

Section 21 of the *Builders' Registration Act 1939* and section 31 of the *Home Building Contracts Act 1991* authorises the Registrar of the Board to take legal proceedings against persons alleged to have breached the provisions of those Acts.

The prosecutions undertaken by the Board in the following table were determined during the reporting period, amounting to 2 prosecutions for 5 offences against the *Builders' Registration Act 1939* and the *Home Building Contracts Act 1991*.

PROSECUTIONS CARRIED OUT BY THE BOARD					
NAME	NO. OF CHARGES	SECTION*	ACT*	FINES \$	COSTS \$
Luigi Di Virgilio	2	4(1aa)	BRA	2,000.00	281.45
		25C(1)	HBCA		
John Crock	3	14(1)	HBCA	1,900.00	121.95
		25C(1)	HBCA		
		4(1aa)	BRA		
<b>TOTAL</b>				<b>3,900.00</b>	<b>403.40</b>

\*BRA = *Builders' Registration Act 1939*; HBCA = *Home Building Contracts Act 1991*

\* offence being prosecuted.



### Building Inspections

Section 12B of the *Builders' Registration Act 1939* provides the Registrar with the discretion to cause an inspection of building work.

Building inspections are undertaken free of charge either upon the request of an owner or builder, to prepare assessments in relation to workmanship complaints lodged with the Building Disputes Tribunal, or at random as part of the Board's compliance program. All inspections are conducted by building inspectors employed by the Board.

During the reporting period, the Board carried out 66 building inspections. Of these:

- 64 were conducted to prepare assessments in relation to complaints lodged with the Building Disputes Tribunal and were conducted upon the builder's or owner's request.
- 2 were random inspections of building work to assess compliance with the Building Code of Australia and Australian Standards.

Of the two random inspections conducted, no remedial work was required.

During the reporting period, Board inspectors assessed approximately 1,050 workmanship items whilst carrying out inspections in relation to complaints lodged with the Building Disputes Tribunal. These are set out in the table below:

COMPLAINT ITEM ASSESSED BY BOARD INSPECTORS	1 JULY - 28 AUG 2011 (%)
Brickwork	4.31
Ceiling	13.79
Ceiling and roof frame	2.59
Concrete paving	5.17
Doors and windows	8.62
Earth footings	0.00
Fixing and joinery	10.34
Flashings	4.31
House site cleaning	0.86
Painting	10.34
Plumbing	4.31
Roof cover	5.17
Slab floor	1.72
Solid plastering	12.93
Swimming pool	0.00
Termites	0.00
Timber floor	3.45
Wall and floor tiling	6.90
Wall frame	0.00
Water ingress and egress	5.17
<b>TOTAL</b>	<b>100</b>

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## Dispute Resolution

### Key Activities

To enable the Board to deliver positive outcomes in the area of Dispute Resolution, the following activities are undertaken:

- Receive and process complaints.
- Refer workmanship complaints for a building inspection where appropriate.
- Conduct building inspections for parties to a dispute and provide parties with a notice of assessment.
- Attend and provide evidence at Building Disputes Tribunal hearings.
- Refer notices of assessment to the Registrar/Deputy Registrar to issue orders under delegated authority.
- Coordinate Building Disputes Tribunal hearings.
- Receive and process the filing of all documents and evidence.
- Prepare complaints for determination by the Building Disputes Tribunal.
- Process requests for reasons for decision.

### The Building Disputes Tribunal

The Building Disputes Tribunal (the Tribunal) is established under section 26 of the *Builders' Registration Act 1939*. The Tribunal's jurisdiction is conferred on it by section 12A of the *Builders' Registration Act 1939* and by section 17 of the *Home Building Contracts Act 1991*, the latter of which covers the entire State of Western Australia.

The Tribunal provides a straightforward, inexpensive forum for adjudicating building disputes about workmanship and contractual issues relating to lump sum home building contracts. Section 3(1a) of the *Builders' Registration Act 1939* provides authority for the Tribunal to issue orders to remedy faulty or unsatisfactory building work statewide.

The Board is required under section 34 of the *Builders' Registration Act 1939* to meet all expenditure necessary for the functioning of, and collection of any fees payable to, the Tribunal. The Tribunal is an independent quasi-judicial body separate from the Board.

### Building Disputes Tribunal Members

The Chairperson and all Building Disputes Tribunal members are appointed by the Minister for Commerce under sections 27 and 28 of the *Builders' Registration Act 1939*.

In June 2010, Mr John Hockley, a legal practitioner, was appointed as Chairperson of the Building Disputes Tribunal and the Board. There are nine Deputy Chairpersons who are also legal practitioners, 11 consumer representatives, 12 nominees from the Housing Industry Association and 10 nominees from the Master Builders Association.

### Complaints Lodged with the Building Disputes Tribunal

Between 1 July and 28 August 2011, there were 71 complaints lodged with the Building Disputes Tribunal under the categories set out below:

CATEGORY OF COMPLAINT	1 JULY – 28 AUG 2011
Workmanship	53
Contractual	9
Workmanship & Contractual	9
<b>TOTAL</b>	<b>71</b>

The persons against whom complaints are made or who respond to a complaint in the Building Disputes Tribunal (known as 'the respondent') comprise four categories, as indicated by the following table:

COMPLAINTS BY RESPONDENT CATEGORY	1 JULY – 28 AUG 2011
Registered Builders	2
Unregistered Persons/Entities	0
Owners	67
Owner-Builders	2
<b>TOTAL</b>	<b>71</b>

The type of work to which each complaint relates is shown in the table below:

TYPE OF BUILDING WORK	1 JULY – 28 AUG 2011
New Home	45
Additions	6
Commercial	3
Renovations/Trades	6
Landscaping	0
Patios & Pergolas	3
Swimming Pools & Spas	1
Other	7
<b>TOTAL</b>	<b>71</b>

### Orders Made by the Building Disputes Tribunal

Section 12A of the *Builders' Registration Act 1939* and section 17 of the *Home Building Contracts Act 1991* provide the Building Disputes Tribunal with the power to make orders to remedy or orders to pay. Orders to remedy require the builder to rectify faulty or unsatisfactory workmanship, while orders to pay may be made against either the builder or the owner to pay for the rectification work to be completed, or in relation to costs or money owed under the terms of the home building contract.

Under section 33A of the *Builders' Registration Act 1939*, the Building Disputes Tribunal may delegate its power to the Registrar and Deputy Registrar where the amount of the order does not exceed \$5,000.

The Building Disputes Tribunal made 85 orders between 1 July and 28 August 2011, comprising 41 orders to remedy and 44 orders to pay. Of these, 22 matters were determined under delegation. Details of all orders made are provided in the following table:

ORDERS MADE BY THE BUILDING DISPUTES TRIBUNAL	1 JULY – 28 AUG 2011
Orders to Remedy (Tribunal)	19
Orders to Remedy (under delegation)	22
Orders to Pay (Tribunal)	44
Orders to Pay (under delegation)	0
<b>TOTAL</b>	<b>85</b>

In addition to the orders listed above, the Building Disputes Tribunal made 59 other decisions, including dismissals, adjournments, directions and determinations on whether it has the jurisdiction to hear particular cases.

### Value of Orders to Pay Made by the Building Disputes Tribunal

The values of the orders made by the Building Disputes Tribunal during the reporting period were as follows:

VALUE OF ORDERS TO PAY	1 JULY – 28 AUG 2011 \$
Issued by Disputes Tribunal	734,533.31
Issued under Delegation	3,200.00
<i>Allocation</i>	
Owner to Pay Builder	119,578.11
Builder to Pay Owner	618,155.20

### Reasons for Decision

Pursuant to section 40 of the *Builders' Registration Act 1939*, a party to a dispute may request the Building Disputes Tribunal to provide written reasons for decision within 14 days of the decision being made. Between 1 July and 28 August 2011, the Building Disputes Tribunal was requested to provide written reasons for decision in ten matters.

Reasons for decision are available to search and download from the Building Disputes Tribunal website.

## Sittings

Between 1 July and 28 August 2011, the Building Disputes Tribunal sat on 63 occasions to hear 85 matters. These included 19 preliminary/direction/jurisdiction hearings and 17 part-heard hearings resulting from adjournments. Five cases were referred for mediation.

## Funding of the Building Disputes Tribunal

As required under section 34 of the *Builders' Registration Act 1939*, the Board funds the Tribunal and provides staff and administrative support to assist it to carry out its functions.

During the reporting period, the Board spent \$149,938 on the dispute resolution process. This does not include the cost of providing building inspections for parties to a dispute. The Board did not impose any restriction on the operations of the Tribunal during the reporting period.

## Income and Expenditure

The financial statement of the cost of managing the dispute resolution process is set out in the following table:

INCOME	\$
Supply of Transcription	150.00
Complaint Fees	3,896.50
Tribunal Costs	0
<b>Total</b>	<b>4,046.50</b>
EXPENDITURE	\$
Disputes Tribunal Hearing Fees	61,946.47
Employee Costs	87,297.15
Tape Transcription	250.00
Office Support Costs	444.30
<b>Total</b>	<b>149,937.92</b>

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## Education and Awareness

### Key Activities

To enable the Board to deliver positive outcomes in the area of Education and Awareness, the following activities are undertaken:

- Promote awareness of the Board's role and legislative requirements.
- Produce publications, present information and undertake other awareness raising activities for consumers and industry participants.
- Maintain information on the Board and Building Disputes Tribunal websites.
- Provide a general enquiry telephone service.
- Sponsor industry and training awards.

The Board carries out building information and educational activities as required under section 8(1)(fa) of the *Builders' Registration Act 1939*.

Between 1 July and 28 August 2011, the Board's objective to raise community and industry awareness focused on the pending commencement of the *Building Services (Registration) Act 2011* and the *Building Services (Complaint Resolution and Administration) Act 2011*. This was met by carrying out the following activities:

- development of flyers advising stakeholders of pending amalgamation with the Building Commission;
- distribution of the Board's quarterly newsletter and e-newsletter to 7,346 recipients, including builders, local government, and industry and consumer associations; and
- distribution of publications to stakeholders including industry associations, local government, education providers, members of Parliament, community legal services and the Small Business Development Corporation.

The Board's Register of Builders is published daily in PDF format on the Board's website. The Register can also be purchased from the Board in excel format. Throughout the reporting period, eight Registers in excel format were purchased.

### Websites

The Board and Building Disputes Tribunal websites provide up to date information on the Board's activities and services including a search of the register of builders, reasons for decision, forms and publications, and an online payment facility.

Throughout the reporting period, the Board maintained all website content for both websites and continued to review and improve information and website services.

Between 1 July and 28 August 2011, the Board's website received 49,107 visits, averaging 24,554 visits per month. This represented an increase of 8 per cent from the previous reporting period.

For the same period, the Building Disputes Tribunal website received 8,837 visits, averaging 4,419 visits per month. This represents an increase of 17 per cent from the previous reporting period.

## DISCLOSURES AND LEGAL COMPLIANCE

### Financial Statements

Section 121 of the *Building Services (Registration) Act 2011* requires that the Board shall, as per the provisions of sections 23A and 23B of the repealed *Builders' Registration Act 1939*, prepare and submit to the Minister an annual report in respect of the former board for the period from the end of the financial year before commencement day to commencement day, together with a copy of the financial statements and the auditor's report.

Section 23A of the *Builders' Registration Act 1939* requires that the accounts and financial statements of the Board shall be audited at the expense of the Board by an auditor appointed by the Board with prior approval of the Minister.

Bentleys was appointed and approved to audit the 2011 accounts.

Section 23B (1a) of the *Builders' Registration Act 1939* requires that the annual report is to contain separate reports on the operations of the Board referred to in section 8B(4)(a) and (b).

A copy of the auditor's report and financial statements including details of the administrative functions of the Board and the management of dispute resolution procedures is at Appendix B.

### Ombudsman Complaints

Complaints regarding administrative actions or omissions by the Builders' Registration Board or the Building Disputes Tribunal can be investigated by the State Ombudsman under the provisions of the *Parliamentary Commission Act 1971*.

There were no complaints received by the State Ombudsman during the reporting period.

### Ministerial Directives

There were no ministerial directives issued to the Board during the reporting period.

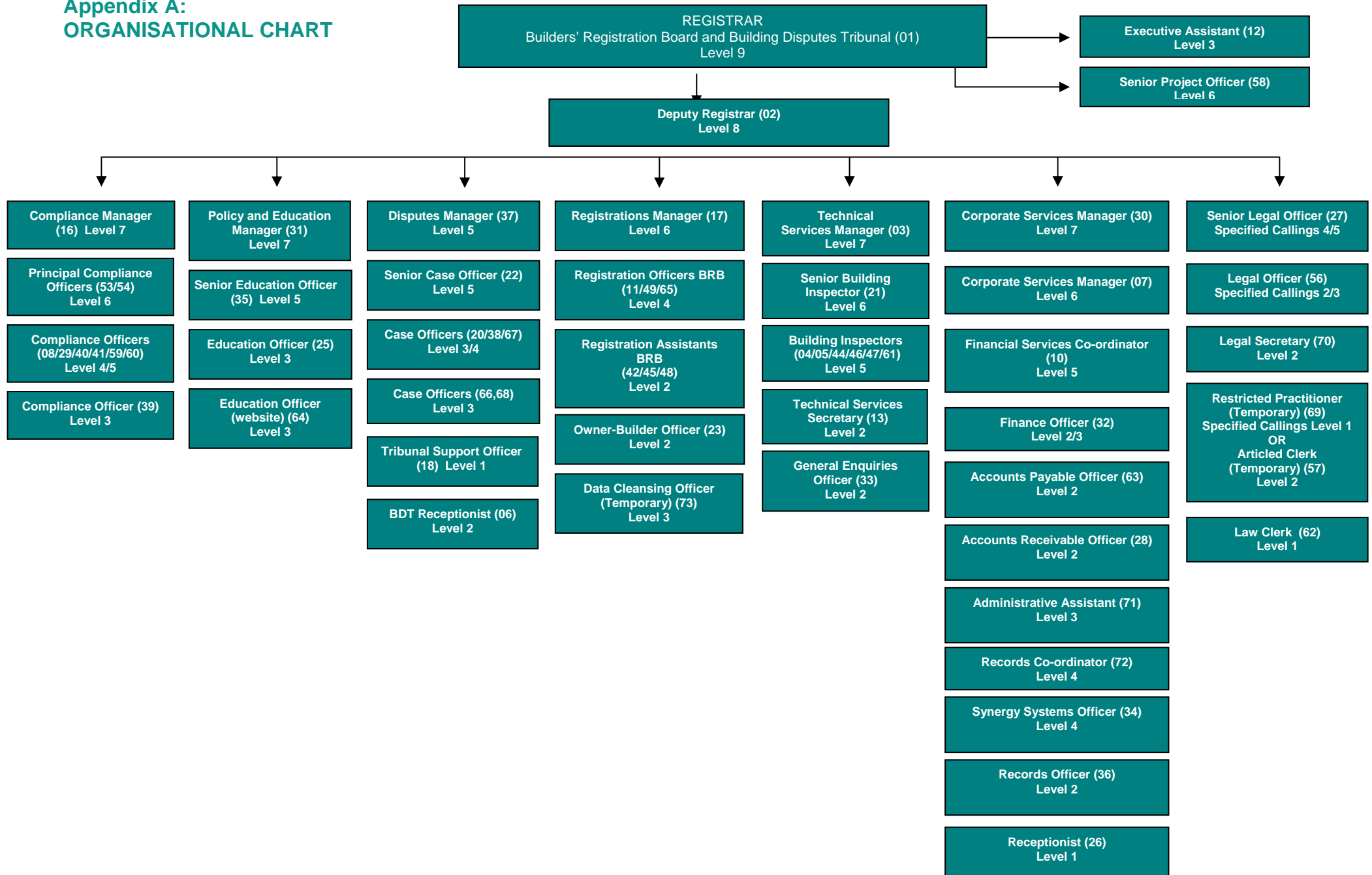
### Capital Works

There were no capital works projects undertaken by the Board during the reporting period.



## APPENDICES

# Appendix A: ORGANISATIONAL CHART



## **Appendix B: FINANCIAL STATEMENTS**

### **Statement on Finances**

The final financial outcome for the Builders' Registration Board of Western Australia was an operating deficit of \$343,892. Building Licence Levy income was down approximately \$130,000 on last years average pro-rata amount for two months and also under by approximately \$160,000 on the 2010/11 budgeted amount for two months. Also reflected in the result is the transfer of the final leave provisions for the four staff who accepted a severance but did not finish with the Board until August. The total amount expensed was \$117,463 split between Corporate Services Staff \$31,414, and \$86,048 for Executive Staff.

Peter Gow  
BUILDING COMMISSIONER

## Statement by Building Commissioner for the period 1 July 2011 to 28 August 2011

In the opinion of the Registrar of the Board, the financial statements as set out on pages 23 to 35:

1. Presents fairly the financial position of the Builders' Registration Board of Western Australia as at 28 August 2011 and its performance for the period ended on that date in accordance with the accounting policies described in Note 1 to the Financial Statements.
2. The report has been properly prepared by a competent person.
3.
  - a) The Board has kept such accounting records as to correctly record and explain the transactions and financial position of the Board.
  - b) The Board has kept its accounting records in such a manner as would enable true and fair accounts of the Board to be prepared from time to time.

The last day of formal operations of the Builders' Registration Board of Western Australia and the Painters' Registration Board was Sunday 28 August 2011. On Monday 29 August the *Building Services (Registration) Act 2011* came into operation which amongst other things transferred all staff and functions of the Builders' and Painters' Registration Boards to the Department of Commerce. Section 118(1)(b) of the Act provides that as from Monday 29 August 2011, the liabilities of the former board (including a share of a liability) immediately before that day become, by force of this section, the liabilities of the State. Therefore at the date of this statement, there are reasonable grounds to believe that the debts of the Board can be met as and when they fall due.

Peter Gow  
BUILDING COMMISSIONER

Dated this 30<sup>th</sup> day of November 2011

## Independent Auditor's Report

### To the Minister for Commerce for The Builders' Registration Board

We have audited the accompanying financial report, being a special purpose financial report, of The Builders' Registration Board, which comprises the balance sheet as at 28 August 2011, the income statement and cash flow statement for the period ended on that date, notes to and forming part of the financial statements, and the statement by the Building Commissioner.

#### Boards' Responsibility for the Financial Report

The Board is responsible for the preparation and fair presentation of the financial report and have determined that the accounting policies described in Note 1 to the financial statements, which form part of the financial report, are consistent with the financial reporting requirements of section 23(1) of the Builders' Registration Act 1939 (as amended), and are appropriate to meet the needs of the Board. This responsibility includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

#### Auditor's Responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial report 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 entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Board, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Bentleys Audit & Corporate  
(WA) Pty Ltd

Level 1, 12 Kings Park Road  
West Perth WA 6005  
Australia

PO Box 44  
West Perth WA 6872  
Australia

ABN 33 121 222 802

T +61 8 9226 4500

F +61 8 9226 4300

bentleys.com.au

## Independent Audit Report

To the Minister of Commerce for The Builders' Registration Board (Continued)



### Independence

In conducting our audit, we followed applicable independence requirements of Australian professional ethical pronouncements.

### Basis for Qualified Auditor's Opinion

#### Completeness of Income

It is not practicable for the Builders Registration Board to maintain an effective system of internal control over the completeness of building license levies per Note 1(f) and accordingly it is not possible for our examination to include audit procedures to extend beyond the amounts of receipts for this income recorded in the accounting records of the Building Registration Board.

### Qualified Auditor's Opinion

In our opinion, except for the matter described in the qualification paragraph above, the financial report of The Builders' Registration Board presents fairly, in all material respects the financial position of the Builders' Registration Board as of 28 August 2011 and of its financial performance for the period then ended in accordance with the accounting policies described in Note 1 to the financial statements and under section 23(1) of the Builders' Registration Act 1939 (as amended).

BENTLEYS  
Chartered Accountants

CHRIS WATTS CA  
Director

DATED at PERTH this 22<sup>nd</sup> day of November 2011

**BUILDERS' REGISTRATION BOARD OF WESTERN AUSTRALIA**

**INCOME STATEMENT  
FOR THE PERIOD 1 JULY 2011 TO 28 AUGUST 2011**

	Notes	1 July to 28 August 2011
		\$
<b>Income</b>		
Annual registration fees		537,417
Administration income	1(e)	5,166
Application fees		26,201
Arrears and penalties		75
Building Disputes Tribunal recoveries		4,047
Building licence levy	1(f)	283,030
Certificate fees		1,779
Fitness and competency assessments		1,419
Interest on investments		11,179
Infringements		170
Other Income		1,038
Owner builder levy - residential		34,004
Owner builder levy - commercial		417
Prosecutions recoveries - Court		7,583
PRB Salaries support charge		57,574
<b>Total Income</b>		<b>971,099</b>
<b>Expenditure</b>		
Annual leave		(2,356)
Appeals/Costs Awarded		48,131
Assessments		2,745
Audit expenses		12,000
Bank charges		1,601
Board members' fees		14,883
Building Disputes Tribunal fees		111,797
Building licence levies-collection costs		32,706
Computer expenses		40,834
Consultants fees		444
Consultants inspectors		13,429

The accompanying notes form part of this financial statement



**BUILDERS' REGISTRATION BOARD OF WESTERN AUSTRALIA**

**INCOME STATEMENT  
FOR THE PERIOD 1 JULY 2011 TO 28 AUGUST 2011**

<b>Notes</b>	<b>1 July to 28 August 2011</b>
	<b>\$</b>
<b>Expenditure (cont....)</b>	
Depreciation	25,903
Doubtful debts	(814)
Fringe benefit tax	10,506
Insurance premiums	13,619
Legal expenses	273
Long service leave	(32,601)
Motor vehicle expenses	18,310
General / Office expenses	6,717
Payroll tax	38,338
Parking levy	7,356
Photocopier expenses	9,098
Postage and courier charges	6,747
Printing and stationery	2,335
Rates, cleaning and electricity	53,360
Redundancy	117,463
Rent	74,724
Repairs and maintenance	643
Salaries - Staff	602,406
Salaries - Agency	13,231
Social business expenses	1,450
Staff training expenses	3,263
Subscriptions	609
Superannuation contributions	62,211
Telephone	1,668
Transcription	250
Travelling and accommodation	1,712
	<hr/>
<b>Total Expenditure</b>	<b>1,314,991</b>
	<hr/>
<b>Operating Deficit</b>	<b>(343,892)</b>
	<hr/> <hr/>

The accompanying notes form part of this financial statement



**BUILDERS' REGISTRATION BOARD OF WESTERN AUSTRALIA**

**BALANCE SHEET  
AS AT 28 AUGUST 2011**

	Notes	1 July to 28 August 2011 \$
<b>Current assets</b>		
Cash	8(a)	1,305,705
Receivables	2	<u>329,702</u>
		1,635,407
Non-current assets held for sale	3	<u>2,138,586</u>
<b>Total current assets</b>		<b><u>3,773,993</u></b>
<b>Non-current assets</b>		
Property, plant and equipment	4	<u>33,519</u>
<b>Total non-current assets</b>		<b><u>33,519</u></b>
<b>TOTAL ASSETS</b>		<b><u>3,807,512</u></b>
<b>Current liabilities</b>		
Accrued expenses		1,234,933
Income in advance		1,006,670
Provision for employee entitlements	5	<u>1,025,414</u>
<b>Total current liabilities</b>		<b><u>3,267,017</u></b>
<b>Non-current liabilities</b>		
Provision for employee entitlements	5	<u>403,648</u>
<b>Total non-current liabilities</b>		<b><u>403,648</u></b>
<b>TOTAL LIABILITIES</b>		<b><u>3,670,665</u></b>
<b>NET ASSETS</b>		<b><u>136,847</u></b>
<b>BOARD FUNDS &amp; RESERVES</b>		
Accumulated funds	6	(2,400,153)
Asset revaluation reserve	7	<u>2,537,000</u>
<b>TOTAL BOARD FUNDS &amp; RESERVES</b>		<b><u>136,847</u></b>

The accompanying notes form part of this financial statement.

**BUILDERS' REGISTRATION BOARD OF WESTERN AUSTRALIA**

**CASH FLOW STATEMENT  
FOR THE PERIOD 1 JULY 2011 TO 28 AUGUST 2011**

	Notes	1 July to 28 August 2011 \$
<b>Cash flows from operating activities</b>		
Receipts from Registered Builders		39,003
Building licence and owner-builder levies		402,723
Payments to suppliers and employees		(2,650,571)
Receipts of administration fee income		5,166
Interest received		11,179
Prosecution, inquiry and infringement monies received		5,746
Other receipts		<u>182,896</u>
<b>Net cash flow provided by operating activities</b>	<b>8(b)</b>	<b><u>(2,003,858)</u></b>
Net increase/(decrease) in cash held		(2,003,858)
Cash at the beginning of the financial year		<u>3,309,563</u>
<b>Cash at the end of the financial year</b>	<b>8(a)</b>	<b><u>1,305,705</u></b>

The accompanying notes form part of this financial statement

## BUILDERS' REGISTRATION BOARD OF WESTERN AUSTRALIA

### NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENT FOR THE PERIOD 1 JULY 2011 TO 28 AUGUST 2011

#### NOTE 1 ACCOUNTING METHODS AND POLICIES

This financial statement is a special purpose financial statement prepared in order to satisfy the financial reporting requirements of the Board under the *Builders' Registration Act 1939* (as amended). The Members of the Board have determined that the Board is not a reporting entity.

The financial statement has been prepared in accordance with the requirements of the *Builders' Registration Act 1939* (as amended) and the following Australian Accounting Standards:

AASB 110: Events after the Balance Sheet Date  
AASB 1031: Materiality

No other Australian Accounting Standards, Australian Accounting Interpretations or other authoritative pronouncements of the Australian Accounting Standards Board have been applied.

The financial statement has been prepared on an accruals basis and is based on historic costs and does not take account of changing money values or, except where specifically stated, current valuations of non-current assets. No comparison of previous figures was required as an audit was not performed on 28 August 2010.

The following specific accounting policies, which, unless otherwise stated, are consistent with the previous year, have been adopted in the preparation of this financial statement:

**BUILDERS' REGISTRATION BOARD OF WESTERN AUSTRALIA**

**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENT  
FOR THE PERIOD 1 JULY 2011 TO 28 AUGUST 2011**

(a) Depreciation/Amortisation

Depreciation/Amortisation is calculated on the diminishing value basis in order to write the assets off over their useful economic life. The rates of depreciation/amortisation used for each class of assets are:

<u>Class of Asset</u>	<u>Depreciation/Amortisation Rate</u>
Premises	5%
Office furniture, fittings and equipment	15%-20%
Office refurbishment	15%
Motor vehicles	20%
Information Technology - Website Design	40%

(b) Revaluation of non-current assets

Land and buildings are revalued at three yearly intervals. Independent assessments are obtained of the fair market value of land and buildings based on existing use and such assessments are used as a guide when revaluations are made. Revaluation increments are credited directly to the asset revaluation reserve.

(c) Income Tax

No provision for income tax is necessary as the organisation is exempt from income tax under Division 50 of the *Income Tax Assessment Act 1997*.

(d) Employee Entitlements

A liability for annual and long service leave is recognised in respect of services provided up to balance date. No material liability exists for personal (sick) leave.

(e) Administration Income

Administration income relates to recouped charges from the Painters' Registration Board for the use of premises, staff and equipment provided and financed by the Builders' Registration Board of WA.

(f) Council Levies

Local Governments remit collected building licence levies with a reconciliation statement showing the number of licences issued per month. The Builders' Registration Board only recognise the collected income when a reconciliation statement is received.

**BUILDERS' REGISTRATION BOARD OF WESTERN AUSTRALIA**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENT**  
**FOR THE PERIOD 1 JULY 2011 TO 28 AUGUST 2011**

**NOTE 2 RECEIVABLES**

	<b>28 August 2011</b>
	<b>\$</b>
Prosecution/Inquiries	264544
Infringements	20
Building licence levy	188150
Other	66,262
	<hr style="width: 100%; border: 0.5px solid black;"/>
	518,976
Less: Provision for doubtful debts	(189,274)
	<hr style="width: 100%; border: 0.5px solid black;"/>
	<b>329,702</b>
	<hr style="width: 100%; border: 0.5px solid black;"/>

**NOTE 3 NON-CURRENT ASSETS HELD FOR SALE**

	<b>28 August 2011</b>
	<b>\$</b>
Premises at independent valuation	2,537,000
Less: Accumulated depreciation	(398,414)
	<hr style="width: 100%; border: 0.5px solid black;"/>
	<b>2,138,586</b>
	<hr style="width: 100%; border: 0.5px solid black;"/>

The Board is intending to sell the premises within the next 12 months.

**BUILDERS' REGISTRATION BOARD OF WESTERN AUSTRALIA**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENT**  
**FOR THE PERIOD 1 JULY 2011 TO 28 AUGUST 2011**

**NOTE 4 PROPERTY, PLANT & EQUIPMENT**

	<b>28 August 2011</b>
	<b>\$</b>
Office furniture, fittings and equipment	25,534
Less: Accumulated depreciation	(23,330)
	<b>2,204</b>
Motor vehicles	36,958
Less: Accumulated depreciation	(5,643)
	<b>31,315</b>
<b>Total property, plant and equipment</b>	<b>33,519</b>

In accordance with the Department of Commerce, all assets with a cost of \$5,000 or less were written-off during the year.

**BUILDERS' REGISTRATION BOARD OF WESTERN AUSTRALIA**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENT**  
**FOR THE PERIOD 1 JULY 2011 TO 28 AUGUST 2011**

**NOTE 5 PROVISION FOR EMPLOYEE ENTITLEMENTS**

	<b>28 August 2011</b>
	<b>\$</b>
Annual leave	348,888
Long service leave (current)	243,792
Long service leave (non-current)	403,648
Termination Payments	432,734
	<b>1,429,062</b>

The liability for long service leave is recognised as current after seven years' continuous service.

**NOTE 6 ACCUMULATED FUNDS**

	<b>28 August 2011</b>
	<b>\$</b>
Balance at the beginning of the period	(2,056,261)
Operating deficit for the period	(343,892)
<b>Balance at the end of the period</b>	<b>(2,400,153)</b>

**NOTE 7 ASSET REVALUATION RESERVE**

	<b>28 August 2011</b>
	<b>\$</b>
Balance at the beginning of the period	2,537,000
<b>Balance at the end of the period</b>	<b>2,537,000</b>

Lot 4,5 and 6 were revalued at 30 June 2011 to reflect market value.

**BUILDERS' REGISTRATION BOARD OF WESTERN AUSTRALIA**

**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENT  
FOR THE PERIOD 1 JULY 2011 TO 28 AUGUST 2011**

**NOTE 8 NOTES TO THE CASH FLOW STATEMENT**

(a) Reconciliation of cash

For the purposes of the cash flow statement, cash includes cash on hand and in banks, net of outstanding bank overdrafts, and short term money market balances. Cash at the end of the financial year is reconciled to the related items in the balance sheet as follows:-

	<b>28 August 2011</b>
	<b>\$</b>
Cash on hand	150
Cash at bank	1,305,555
	<u>1,305,705</u>

(b) Reconciliation of net cash flow from operating activities to operating deficit

	<b>28 August 2011</b>
	<b>\$</b>
Operating deficit for the period	(343,892)
Non cash flows in operating surplus:	
- depreciation	25,903
- doubtful debts	(814)
Net movement in assets and liabilities:	
- increase in receivables	211,154
- increase in prepayments	17,237
- increase in sundry creditors	(994,071)
- decrease in accrued expenses	(498,546)
- decrease in income in advance	(503,335)
- decrease in provision for employee entitlements	(34,957)
- increase in provision for employee redundancies	117,463
	<u>(2,003,858)</u>



**NOTE 9 EVENTS AFTER THE BALANCE SHEET DATE**

The last day of formal operations of the Builders' Registration Board of Western Australia and the Painters' Registration Board was Sunday 28 August 2011. On Monday 29 August the *Building Services (Registration) Act 2011* came into operation which amongst other things transferred all staff and functions of the Builders' and Painters' Registration Boards to the Department of Commerce. Section 118(1)(b) of the Act provides that as from Monday 29 August 2011, the liabilities of the former board (including a share of a liability) immediately before that day become, by force of this section, the liabilities of the State. Therefore at the date of this statement, there are reasonable grounds to believe that the debts of the Board can be met as and when they fall due.