

**REPORT ON PROCEEDINGS BEFORE**

**PUBLIC ACCOUNTS COMMITTEE**

**EXAMINATION OF AUDITOR-GENERAL'S PERFORMANCE AUDIT  
REPORTS FEBRUARY 2018 - JULY 2018**

**At Preston-Stanley Room, Parliament House, Sydney, on Monday 24 February 2020**

**The Committee met at 13:10.**

**PRESENT**

Mr Greg Piper (Chair)

Mr Justin Clancy

Mr Lee Evans

Mr Ryan Park

Ms Felicity Wilson



**The CHAIR:** I declare open this public hearing, the examination of the Auditor-General's performance audit reports for February 2018 to July 2018. I welcome everybody here, obviously including our staff, Committee staff and Hansard; our representatives from the Office of the Auditor-General, the Auditor-General, Margaret Crawford, Claudia Migotto and Scott Stanton; and Mr Chapman and Greg Wells. Welcome and thank you for being here to represent your agency. Thank you for attending this public hearing, held as part of the Public Accounts Committee follow-up of the Auditor-General's performance audits. Today we will take evidence relating to selected performance audits from February to July 2018.

Before we commence I acknowledge the Gadigal people who are the traditional custodians of the land on which we meet here at Parliament. I also pay my respects to Elders past and present of the Eora nation and extend that respect to other Aboriginal and Torres Strait people who are either present or who are viewing the proceedings on the internet. I ask everyone to switch off their mobile phones as they can interfere with the Hansard equipment. I declare the hearing officially open and I welcome the Auditor-General, Ms Margaret Crawford, the Acting Deputy Auditor-General, Mr Scott Stanton, and Claudia Migotto, the Assistant Auditor-General of the Audit Office of New South Wales, who will be with us for the entire hearing to provide additional information as required. I also welcome our first witnesses from the Department of Customer Service who will now be sworn in along with the Audit Office representatives.

**GREG WELLS**, NSW Government Chief Information and Digital Officer, Department of Customer Service, sworn and examined

**TONY CHAPMAN**, NSW Government Chief Cyber Security Officer, Department of Customer Service, sworn and examined

**SCOTT STANTON**, Acting Assistant Auditor-General, Audit Office of New South Wales, sworn and examined

**MARGARET CRAWFORD**, Auditor-General, Audit Office of New South Wales, affirmed and examined

**CLAUDIA MIGOTTO**, Assistant Auditor-General, Audit Office of New South Wales, affirmed and examined

**The CHAIR:** So, in dealing with the issue of cybersecurity, I thank you both, Mr Chapman and Mr Wells, for appearing before the Public Accounts Committee today to give evidence. I would ask now, gentlemen, if either of you representing the organisation would like to make a very brief opening statement to the Public Accounts Committee?

**Mr CHAPMAN:** I would. Thank you. Firstly, I appreciate the opportunity to provide you with a short statement and to furnish additional information to that provided to the Committee via correspondence on 14 August 2019. The New South Wales Government has welcomed all three of the Auditor-General's reports that provided recommendations on cybersecurity. Since being established Cyber Security NSW has laid the foundations for the whole-of-government cybersecurity practice. We must, however, continue to be vigilant in our approach to cybersecurity in the age of Beyond Digital. The threats are continually evolving and those who want to do us harm are advancing and adjusting their techniques, tactics and procedures for maximum effect.

We have made progress against the issues highlighted in the report, which is the subject of today's inquiry. Further to that I must say that really this report in question acted as a blueprint for the development of the cybersecurity roadmap, which underpinned the publicly available NSW Cyber Security Strategy, which was released in September 2018. We take the findings very seriously and are implementing the majority of recommendations. We identified 26 tasks for completion against the seven recommendations in the report. Of these 26 tasks, 14 were completed at the time of our report to the Committee, seven have been completed since and five remain in progress. Two of the tasks required completion by agencies across the sector as they are now mandatory requirements in the NSW Cyber Security Policy.

The only recommendation requiring further consideration is extending mandatory requirements to other New South Wales agencies, such as State-owned corporations. Cyber Security NSW does not have a mandate to expand the scope outside the New South Wales Government to State-owned corporations, councils and universities. Consultation and agreement would need to occur with these types of agencies to identify whether they have the resources to comply. Despite this, myself and members of my executive team quite routinely have briefed a number of audit and risk committees from State-owned corporations in particular. We have progressed a number of key achievements that not only address these recommendations, but ensure further cybersecurity readiness and resilience across the New South Wales Government.

The NSW Cyber Security Policy came into effect on 1 February 2019 after extensive consultation at all levels of the New South Wales Government with strengthened mandatory requirements. Agencies must now report all incidents to Cyber Security NSW. This has resulted in increased detection of incidents and reduced impacts across the New South Wales Government. The increased reporting provides the New South Wales Government with information used as early warnings to other agencies to assist in early detection. The policy highlights cybersecurity as everyone's responsibility with agency heads responsible for compliance and with specific cybersecurity responsibilities for senior management and all staff. The focus is on building a cybersecurity culture through education and awareness as well as intelligence sharing.

Agencies now report annually how they are tracking against the Australian cybersecurity key technical controls known as the Essential 8. For the first time agencies must also keep track of their most vulnerable or operationally vital systems or information. Agencies must also have an approved cybersecurity plan integrated with business continuity arrangements, plus an accountable governance committee at the executive level, detailed to or including cybersecurity. We have created new cybersecurity governance arrangements, principally the Cyber Security Senior Officers Group, which includes key agency leadership from across the New South Wales Government.

We have also led the implementation of a State emergency sub-plan for cybersecurity and a program of exercises to practice for a significant incident or a crisis. In addition we have a strong incident management plan in place for the whole of government and this plan is reviewed and practised regularly. While cybersecurity is an extreme and growing threat to New South Wales, we have made significant progress since these audits were

completed. All of the achievements I have listed are new arrangements, processes, policies and practices that did not exist within the State in March 2018. We are focused on committing to continuing our work against a cyber safe New South Wales—one that is connected, protected and trusted.

**The CHAIR:** Thank you, Mr Chapman. I note that many of the issues that we would be expecting to canvass in this inquiry have probably been touched on by that brief introductory comment. Please forgive the Committee if we ask questions that you believe have been answered. We are not trying to be obtuse, but some of those questions need to be answered for the record more directly. With that in mind, I shall ask the first question and then I will defer to other members of the Committee.

The audit recommended that, as a matter of priority, the Department of Finance, Services and Innovation should provide better practice guidelines for incident detection, response and reporting to help agencies develop their own practices and procedures. Has the department provided better practice guidelines to agencies for incident detection, response and reporting? Does the department offer regular training sessions to agencies to assist with better understanding of the practice guidelines?

**Mr WELLS:** I think what has been achieved in the last couple of years that Mr Chapman has outlined is that I think it has gone beyond just guidelines and best practice of guidelines. I think what Mr Chapman has outlined there—that, to be honest, this audit pretty much kicked off—was a policy that is now mandatory for clusters to action and report against. What we are seeing for the first time last year in August was clusters looking at those mandatory requirements. Some of those are governance requirements, some of those are process requirements and some of those are technical requirements and technical controls. For the first time agencies need to look at that set of requirements and report against them. I would say as well as best practice guidance—and we can talk to training and advice as well—it is more fundamentally mandated across government now that that is the level of reporting we need to uplift cybersecurity maturity across the State. Mr Chapman, do you want to cover training and awareness?

**Mr CHAPMAN:** Absolutely. Just before I do, I might just reiterate that we have also developed, as well as guidelines, an internal incident response plan. I mentioned the incident sub-plan which is a part of the emergency management arrangements now within New South Wales. That was endorsed by the State Emergency Management Committee in December 2018. On top of that for the first time is Council of Australian Governments-approved cyber incident management arrangements, which are underpinned by a handbook which has all different information around how agencies should respond and how they work with both Cyber Security NSW and where we fit in the national landscape as well.

Your question in relation to training—we do offer training. We work very collaboratively with the cluster Chief Information Security Officers from the eight clusters. They sit on a forum called the cybersecurity steering group which meets monthly. But really one thing I have identified is that we do have to look wherever possible to offer training outside of just the eight clusters. Just last week alone we held the first small, independent agencies workshop at the Joint Cyber Security Centre here in Sydney and then, towards the end of the week, another session with local councils. We had over 60 representatives from local councils there as well. That went to the point of best practice policy implementation. In addition to that, across the sector we also offer some technical training through an online portal as well.

**The CHAIR:** The audits recommended that as a priority the department should provide a support model for agencies that have limited detection and response capabilities. I think this is a pretty important area as not every agency is created equal or has sets of resources that might assist there. Is the department now supporting such agencies? Have they been identified and are you supporting such agencies?

**Mr CHAPMAN:** Absolutely. The Secretaries Board, post machinery of government changes last year, looked at the governance arrangements for cybersecurity, and there was an express recommendation through a Secretaries Board meeting to empower cluster Chief Information Security Officers to have ownership for each agency within their cluster. That alone, culturally, really elevated responsibility for cyber. In relation to the support model, the paperwork that was submitted to the Committee in August 2018 noted a proposal for a vulnerability management service to be developed. That still is in the planning stage. That will look at government vulnerabilities in internet-facing services in order to aid clusters and agencies. That was something that was discussed with representatives from smaller, independent agencies and councils in particular last week. We want to ensure that we are co-designing this product, but that is certainly something that we plan to launch hopefully sometime this year.

**Mr RYAN PARK:** Are you concerned that State-owned corporations do not have to comply with mandatory reporting? Because I am—I will be honest with you. They own some of the most critical assets or operate some of the most critical assets to our community. With the greatest respect, a small agency may be

complying but if there was a cyber attack on our water, for instance, or our critical electricity network, et cetera—are you concerned about that?

**Mr WELLS:** While at the moment the scope of what we have started from the inception of this has not covered mandatory reporting for those organisations or councils or universities, we do encourage them to report and we work as closely as we can with those organisations. It is certainly something we are looking at this year in the scope of what the central function of Cyber Security NSW could cover, and we are working with Government to look at the investment required for that additional scope. As you point out, coverage across everywhere is important, so we want to look at everything.

**Mr RYAN PARK:** What can we do to make sure they do comply? Is it a legislative change?

**Mr WELLS:** At this stage it is more about the scope of what Cyber Security NSW covers and we are working through that process with Government at the moment.

**Mr RYAN PARK:** It is concerning, though, isn't it? It seems ironic and a bit farcical that they are not covered yet. The agencies that have arguably the most sensitive infrastructure under their bailiwick and control are not covered or are not required to report back to an agency that is designed and tasked to protect the New South Wales community against cyber attacks. That is baffling.

**Mr CHAPMAN:** I would say that despite not being formally covered by the policy, the Chief Information Security Officers who carry the risk in those State-owned corporations very much still look to us for advice and guidelines, et cetera. They receive our advisories and alerts, and we have got to a point by building relationships with them that they will alert us when incidents do occur.

**Mr RYAN PARK:** I am sure that is the case. I just think there should be a push to compel—

**Ms FELICITY WILSON:** Chair, could you please ask the member to ask questions of the witnesses rather than express opinions?

**Mr RYAN PARK:** I will ask it. Do you think they should be compelled?

**Mr WELLS:** Again, that is something we are working through at the moment with Government.

**The CHAIR:** Are there any other questions in regard to cybersecurity?

**Mr LEE EVANS:** In your opinion—I am not necessarily holding you to oath—when it comes to cybersecurity threats, are we ahead of the game or behind the game?

**Mr WELLS:** In terms of other jurisdictions, I would say that the requirement for agencies to report against a standard set of guidelines and the fact that we have had a first year of that reporting cycle process means that, as Mr Chapman mentioned, it is now culturally seen at the secretaries board level—and, I must say, at a Cabinet level as well—as being a critical issue for us to address. All of that has built a far bit of maturity that some other jurisdictions are still getting to. But by no means does that mean we are safe or have mitigated the risk. We have a lot of work to do. That is clear. We have made a lot of progress but there is always work to do. The key thing with cybersecurity is that it is not a point in time; it is always ongoing. There are threats everyday and we need to manage them everyday. Whilst there has been some fantastic progress, there is more to do, and we will continue to do more. But it would be fair to say that other jurisdictions are looking to the example we have set and are following that process.

**Ms FELICITY WILSON:** I congratulate you on all the work you have done to establish Cyber Security NSW. You made reference to the Audit Office in your opening statement. Would it be appropriate for me to say that much of the work that has been undertaken has come from the work of the Audit Office? Is that what you were saying in your opening statement?

**Mr CHAPMAN:** Thank you. Yes, my comment related to the fact that when this report was released it was very much at a point in time when the former Government Chief Information Security Officer was developing both the now publicly released strategy and the roadmap. The roadmap was a whole list of initiatives that we are measured for with the governance arrangements that are in place. But, yes, a lot of the specific initiatives were a result of a lot of the things that were listed in that.

**Ms FELICITY WILSON:** I was just hoping to get that on the record and acknowledge the work of the Audit Office. You have both spoken a couple of times about culture and responsibility, which is paramount to embedding any requirements or processes. You said that in the clusters and in Cabinet you are seeing a level of responsibility and a culture that supports the work of Cyber Security NSW. Is that uniform across the agencies and clusters or are there areas where you think more work needs to be done to have that serious focus that you have outlined we need across government?

**Mr WELLS:** I think it would be fair to say that there is variable level of maturity across government. I am not going to get into any specific details of any one place or one issue. But in general at the secretary board level there is a discussion every two months for half an hour where a rotating cluster will come with their uplift plan, talk about their experience to date and share stories, approaches and initiatives from across all clusters. That is fantastic. It is great that that level of visibility is being given to this issue across government. That is happening at the secretary level.

In Cabinet there is a recognition that this is a really significant risk that needs to be mitigated and that we need to do everything we can to support and sponsor this work. While there are probably always certain digital clusters that are better at certain things than others, we try to lift the capability and assist clusters to lift the capability of everyone. In the last 18 months to two years that capability, or at least the awareness culturally—as you pointed out—has certainly lifted. Historically this has been seen as a technical IT issue. While it is partly about technical controls, it is as much about governance, risk management, awareness and training as it is the technical side of things. It has been great to see that level of sponsorship at a very senior level across government.

**Ms FELICITY WILSON:** Within your own department there are obviously significant moves towards digitising a lot of services for customers and citizens of the State. Can you talk through what the challenges are from a cybersecurity perspective in managing that level of information and that breadth of participation from citizenry in those levels of government? And, if you are happy to, can you tell us whether or not you think you have got the processes, skills and resources to keep that process connected, protected and trusted?

**Mr WELLS:** Again, specific initiatives within a cluster are the responsibility of a cluster. If you pick any initiative within any cluster that has important information on it, there is an important operational need for the frontline. We work very hard to make sure that security is thought of in the design at the commencement of a program and is designed in the program from the start. It is the same way as how we would think about the privacy, ethics and transparency of everything at the start of a program. We do that with the procurement process and we do that with the design process. I think we have done a pretty good job of starting to influence this being thought of as one of the most important things from the commencement of a program.

**Mr JUSTIN CLANCY:** Mr Wells, you spoke about analysis across jurisdictions as to best practice. I am interested in learning a little bit more about the different jurisdictions. Mr Chapman, you spoke of continually evolving threats. Across jurisdictions what is the formal link, particularly with the Commonwealth?

**Mr WELLS:** If it is okay, I might get Chapman to talk about a couple of things. The first is the link up we have through a role that is similar to Mr Chapman in each jurisdiction. The second is the role that the Australian Cyber Security Centre plays at the Commonwealth level and how we interact in certain scenarios. That is an important collaboration that has also been built on over the past 18 months. Previously it was not working as effectively as it is now. There are a couple of ways that it works. But Mr Chapman represents New South Wales on those forums so I might get him to speak to that.

**Mr CHAPMAN:** Thank you, Mr Wells. Yes, I am a member of the National Cyber Security Committee, which includes all the heads of cybersecurity from around the country. That group meets quarterly. But there are also quite frequent interactions between members of that committee. Importantly, last year that committee also established an operations subcommittee. My director of operations sits on that. It is very much an operational forum that is in contact quite frequently. We have also established a policy subcommittee. For the record, I must say that our relationship with the Australian Cyber Security Centre out of Canberra is at a point of unprecedented cooperation, whether it be through advice on new and emerging threats or very frequent intelligence sharing.

**The CHAIR:** I will ask a question about the audit recommendation that the department should direct agencies to include standard clauses in contracts requiring IT service providers to report all cybersecurity incidents within a reasonable timeframe. Are agencies required to use standard contract templates when employing the services of IT service providers and, if so, could you elaborate on that?

**Mr CHAPMAN:** We held a workshop with clusters very recently, in January this year, that was focused on procurement. We often have a lot of the cluster chief information security officers approach us for guidance, especially when they are looking to engage a vendor or manage the IT risk. They are frequently coming to us to seek guidance on that.

**The CHAIR:** Do you have a list of ranked vulnerabilities within the process or are you just looking generally across the board, bearing in mind, as Mr Park was saying, that there are certain areas that are critical to the operations of government and the maintenance of social infrastructure?

**Mr WELLS:** I think the first thing to say in terms of critical vulnerabilities is that there are thousands a day, which are mostly caught by cluster technology and do not escalate or get past the protection that is place. But they key thing to know here is that they are coming all the time. That is why with cybersecurity you cannot

complete an audit process and think you are safe. It is ongoing. Investment and uplift is required all the time. In terms of the reporting, we do have a sense of which agencies and which clusters are stronger and weaker and where there are certain different mandatory requirements from a policy perspective or technical controls that need to be uplifted. But that is specific to each agency. What we have reported on here is, obviously, the aggregate of that level but we work with clusters on each of their uplift plans. As I said, that is something that is presented by secretaries to other secretaries every two months.

**The CHAIR:** We are running out of time to deal with such a complex matter. Apart from yourselves, the people in this room who probably know most about it are with the Audit Office of New South Wales. If I could defer to the Auditor-General, Ms Crawford, as to whether or not there is anything you think we may have missed that may be important for the Committee to hear about.

**Ms CRAWFORD:** Thank you, Chair. No, I think it is fair to say that the Audit Office was very pleased with the way this report was taken up at the time but, as Mr Wells says, it is an ongoing, changing world, so constant vigilance is the key. The Audit Office will continue to do further audits in this space. We will continue to look at the compliance of clusters against the Essential Eight. We have deep-dive audits of specific agencies underway. I was very interested, though, in what you said about local councils because that will also be a focus of our local government audits going forward because we think there is a long way to go there.

**The CHAIR:** Thank you, Ms Crawford, for those comments. Perhaps later on we can also have advice from the Audit Office of New South Wales as to questions that were raised by the member for Keira, particularly in relation to State-owned corporations. That is something that we could look at more closely. If the members of the Committee are satisfied that there is nothing else imperative that we have missed at this point, I wish to thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply within five days to any further questions?

**Mr WELLS:** Yes.

**Mr CHAPMAN:** Yes.

**The CHAIR:** I thank you for appearing before the Committee today.

**(Mr Wells and Mr Chapman withdrew.)**



**SIMON DRAPER**, Chief Executive Officer and Co-ordinator General, Infrastructure NSW, affirmed and examined

**CHRIS HANGER**, Executive Director, Regional NSW Group, NSW Department of Planning, Industry and Environment, affirmed and examined

**SUSIE MACKAY**, Executive Director, Freight, Transport for NSW, affirmed and examined

**SHARON BENNETT**, Director, Freight, Strategy and Planning, Transport for NSW, affirmed and examined

**The CHAIR:** We are now looking at regional assistance. I welcome representatives from Infrastructure NSW, the NSW Department of Planning, Industry and Environment and Transport for NSW. Thank you for appearing before the Public Accounts Committee today. Will you please confirm that you have been issued with the Committee's terms of reference and information about the standing orders that relate to the examination of witnesses?

**Ms BENNETT:** Yes.

**Mr HANGER:** Yes.

**Mr DRAPER:** Yes.

**Ms MACKAY:** Yes.

**The CHAIR:** That is in the affirmative. Do you have any questions about that information?

**Ms BENNETT:** No.

**Mr HANGER:** No.

**Mr DRAPER:** No.

**Ms MACKAY:** No.

**The CHAIR:** Would any of you like to make a brief opening statement?

**Ms MACKAY:** Thank you for the opportunity to attend this afternoon to discuss Transport for NSW's response to the recommendations for Transport in the Auditor-General's report. Being new to the role of Executive Director, Freight, I was pleased to read in the report that the program was found to be well-managed and the recommendations for Transport NSW went to improvements that were recognised as already being on foot. In keeping with the recommendations, all Transport records are now managed in accordance with the State Records Act and we have incorporated a benefits realisation framework as part of the detailed application process. I hope that today you will be reassured that we are undertaking our role in the administration of the program in a manner that robustly collects and preserves program documentation and information in support of equitable decision-making and ultimately achieving the objective of delivering economic and productivity benefits for farmers, businesses and communities across regional New South Wales.

To date 302 projects have been approved for funding to a total value of nearly \$387 million. Over half of those projects are now complete. Nearly 80 councils, including the Central West joint organisation, have benefited from the Fixing Country Roads program. Examples of the projects that have been delivered include bridge replacements in Byron shire, a new truck wash at the saleyards in Cowra and widening and sealing of seven kilometres of road between Nymagee and Hermidale. These projects not only provide improved access for safer, more productive road freight but also they support regional New South Wales jobs, growth and economic productivity by reducing the costs of getting the goods to market. Of course, I am happy to assist with any further questions that you may have today. Being relatively new to the position of Executive Director, Freight, I have asked Ms Bennett to attend. Ms Bennett is responsible for the delivery of the program and directly oversees that area.

**Mr DRAPER:** I have some brief introductory comments. First of all, I thought the report done by the Audit Office a couple of years ago was generally positive, and that reflects the processes we have in place for administering the funds—the Restart NSW funds in particular—under this program. Those regionally-based funds are generally managed by submission-based rounds against published criteria, technical assessment by an officials group, further review by a regional independent assessment panel and then, finally, a recommendation by Infrastructure NSW [INSW] to the Treasurer. So there are a number of steps that you have to pass through.

The audit did identify a number of areas for improvement. I think they had seven recommendations, and there has been progress against all of those recommendations in the intervening period. We can go into a little

bit more detail but certainly on probity and record-keeping there have been steps taken to address the recommendations in the report; undertaking of compliance audits; guidelines or information for councils and applicants on use of unspent funds; and then, finally, on benefits realisation. In all of those areas there have been steps taken.

**The CHAIR:** Mr Draper, with regard to INSW's response to the audit recommendations, the response indicated that Infrastructure NSW has addressed recommendation No. 1 and prepared a consultation paper regarding proposed additional guidance, which includes governance arrangements including probity plans and reports. However, full completion of the recommendation is significantly delayed. What is the reason for the delay and what is the progress of this recommendation and its expected completion date?

**Mr DRAPER:** I am not sure if it is what you are referring to, but we originally said there was going to be an independent review undertaken. But rather than take those steps, in fact what INSW did was actually just start taking the actions to respond to the findings in the report. There are a number of things. With the probity plans, one of the findings was that not all elements of the probity plans had been thoroughly completed—in particular, things like record-keeping on conflicts of interest. There was an issue raised about the fact of the overlap between internal audit and the probity advice. That has also been remedied. We have now got a clear separation between our internal audit, which is KPMG, and O'Connor Marsden [OCM], which is our probity auditor. Rather than undertake the independent review, we have just gone straight into the actions that would otherwise be required.

**Ms FELICITY WILSON:** I am not sure if you are actually answering the question or if I am misunderstanding you. What I take recommendation No. 1 to be—I am reading the report that came back and it says here in the table that was given to us that came back from, I think it actually came through INSW, that it coordinated the responses. It says the most up-to-date information we have here is that in May 2019 INSW put a paper to its board requesting an endorser paper for consultation with relevant agency and Ministers, et cetera. It says towards the bottom, "The proposal is currently the subject of consultation with agencies". There were some concerns that that recommendation was due to be completed by June 2018. We are close to two years later now and I am not sure if there were also some concerns about the lack of timeliness with which it was initially responded to.

**Mr DRAPER:** That comment that was in the update that was provided I think last year, that information about that paper put to our board was not really our response to the audit report. It was some other work that was being undertaken at the time. We had prepared some papers for our board on how to manage the improvement and management of these programs in the future. There was a submission to our board; the board accepted it. We then consulted with our agencies that are involved in administering some of these programs. We then provided advice to Government saying these are the some of the things that have come out of that. That was certainly worthwhile activity, but it was not a direct response to the audit report.

**Ms FELICITY WILSON:** Do you have a response to that recommendation, which was to ensure probity reports address whether all elements of the probity plan have been effectively implemented?

**Mr DRAPER:** We have, yes. That is not the subject of that paragraph that you were reading from a moment ago. We have put in place a number of steps to ensure that the probity plans are fully complied with, including undertaking reviews of the programs as we progress through them—getting OCM to do reviews to make sure that it is satisfied that the probity plans have been properly implemented. Its advice is that, yes, this is now properly addressed in the assessment methodology; all the requirements of the probity plans are addressed there. We have made quite a bit of progress on that. That other paragraph you are referring to is I guess action in addition to that response.

**Ms FELICITY WILSON:** Can you comment on the other suggestion I made that there was a significant delay in timeliness in the initial response to the Audit Office of NSW advice? Obviously we are all very concerned about ensuring that the significant levels of regional investment are delivering outcomes and used appropriately, and all members obviously support the work of the Audit Office. Do you know why it took so long to get responses initially?

**Mr DRAPER:** I am not aware that there was a delay. Perhaps the Auditor-General can advise—I am not aware there was a delay to that. Certainly the action that INSW initially proposed, which was to undertake an independent review, was not followed. In hindsight I would say it was probably better just to respond directly to the recommendations of the Audit Office and to implement changes responding to those. In that sense, that response of INSW was not implemented, but the actual remedies were put in place.

**Mr RYAN PARK:** Mr Draper, has Infrastructure NSW got formal objectives for these programs—what you want to achieve?

**Mr DRAPER:** The programs themselves have objectives. They are not determined by INSW. They are determined by the sponsoring agency. Each of them has their own objectives and criteria, which are published as part of the submission base rounds.

**Mr RYAN PARK:** How do we measure those?

**Mr DRAPER:** That really goes to the Audit Office's comments about measuring benefits realisation and program evaluation. The early rounds of most of those programs did not have formal benefits realisation frameworks, but the best that we can do, I think, in terms of measuring the outcomes is have the—they were initially assessed as being compliant with the criteria. If those projects were subsequently implemented, deliver the product required and specified to the budget required in the time frame required then we would say that is probably about as good an indication as we will get at this point of those early rounds that the benefits have been realised. I know that there has been some other work done to have a look at some of these—I think it was Fixing Country Roads in particular, and perhaps Ms Mackay can comment on that in a moment. But for subsequent rounds I know that agencies have produced evaluation frameworks for those programs so that they are in a slightly better position or much better position to evaluate the benefits.

**Mr RYAN PARK:** So they can say, "This has resulted in X, that is why we have handed out money to Y"?

**Mr DRAPER:** Yes. I think it is worth bearing in mind—I suppose the other comment we would make, and I guess we made this to the Audit Office, not that the Audit Office necessarily agrees with this, but a lot of these projects are relatively small in scale. Evaluating individual projects in a lot of cases would require a lot of investment in the evaluation, which may be disproportionate to the scale of the project, so the evaluation might be better to happen at a program level than at a project level.

**Mr RYAN PARK:** In either of these programs, do Ministers approve the list of recipients?

**Mr DRAPER:** No. The process for determining recipients of grants for Restart NSW funds is—generally speaking there is an advertised round. Submissions are made by mostly councils. They are evaluated within departments—it is usually more than one department. A number of people from different agencies are evaluating at a technical level to determine whether they are, firstly, compliant with the criteria and, secondly, whether they meet the benefit-cost ratio [BCR] requirements, et cetera. They then make a recommendation to the Regional Independent Assessment Panel; they make a recommendation to INSW and then we make a recommendation to the Treasurer. The Treasurer, as the responsible Minister for the Restart NSW Fund Act 2011 can decide not to proceed with funding, but no Minister can initiate the funding.

**Mr RYAN PARK:** So to date has the Treasurer decided not to go ahead with any funding that has been recommended.

**Mr DRAPER:** I would have to check.

**Mr RYAN PARK:** You can take it on notice. That is fine.

**Mr DRAPER:** I am happy to take it on notice. At each of those stages, I cannot think of any where we have received a recommendation from the assessment panel where we have not proceeded. They sometimes do not agree with the recommendations that come from the technical panel. But I will take it on notice about whether the Treasurer has not proceeded with any.

**Mr JUSTIN CLANCY:** Mr Draper, I am interested in recommendation three which is looking at a recommendation by the Audit Office for a random sampling, in terms of managing projects. Infrastructure NSW has taken a risk based approach. I was just interested in you clarifying your response to that recommendation and in terms of the risk based approach, how many audits have been performed and the results of those please?

**Mr DRAPER:** Yes, the Audit Office suggested a sample-based approach which is perfectly legitimate. But given when you have risk based information available that allows you to target those audits more, that is our preference given the scale of the programs. There are over 700 projects in these programs. We have two sources really of targeting audits. One is, we get monthly reports on the progress of the implementation of the program and we give them a rating of red, amber or green. Secondly— so it is the sort of quality that we are reporting but also just the progress of the project. If we think there are some problems there, we may do an audit. We have audited, I think, three local governments and one non-government recipient. I think that accounts for 16 projects altogether. In each of those cases it was very worthwhile. We have either clarified that there was not a problem in a few cases. But in some cases there were clearly recipients who were struggling and we have had to work with them to make sure that the projects they had funded were put back on track. Often it is around governance on the side of the recipients or their own project management capabilities.

**Mr JUSTIN CLANCY:** Is it only just the red ratings that you audit in that regard? Or do you make forays into those on a medium-risk level?

**Mr DRAPER:** We would start with those that are red, that would be our standard. But if we had a sense of any that were headed in that direction—maybe they were only rated amber at that point—we might pick them for an audit.

**Mr LEE EVANS:** Back to probity and record-keeping. As detailed on pages 11 and 12 of the audit report, Infrastructure NSW use the same consultant appointed for its internal audit services to provide probity advice for both programs. This is contrary to the NSW Procurement Board direction designed to prevent real and perceived conflicts of interest. The audit also found the record-keeping processes of both programs did not fully comply with the processes recommended by the probity adviser. Has further work—and I think you may have answered this a little bit prior—been done to engage different consultancies to audit the probity services provided and what other steps have been taken to overcome any real and perceived conflicts of interest in the engagement of probity advisers and auditors in the agency?

**Mr DRAPER:** For the first part of that question, yes we have. As I mentioned earlier, we now have—and I think it is a totally sensible recommendation that you do not use the same probity adviser as you use for an internal audit because you will certainly get to the point where you want to conduct audit programmes against your probity activities. Clearly you do not want the same person doing that. So we have formally separated those roles. The point about conflicts of interest in the Audit Office report was more about the conflicts of interest of the advisers, which I have just addressed, but secondly the conflicts of interests of participants in the assessment process and making sure they were declared and that records were kept of those. So we have taken action to make sure that is much more rigorously undertaken.

**The CHAIR:** Transport for NSW has implemented a benefits realisation framework for its Fixing Country Roads program. However it is unclear whether Infrastructure NSW and the Department of Planning, Industry and Environment [DPIE] have implemented a benefits realisation framework for the Resources for Regions program as recommended. Has INSW or DPIE implemented the benefits realisation framework for the Resources for Region program and if so what does it contain?

**Mr HANGER:** That is being implemented for subsequent rounds of the program. As Mr Draper indicated, those were not in place for the initial rounds of the program but they are being implemented for subsequent rounds of the program. It has been work that has looked at—and Mr Draper was talking about this—how those initial projects have delivered for those communities. In this case, it is about mining impacted communities. So we have looked at early rounds to see the types of projects that have been delivered and an example would be the Cobar water project. As many of you would be aware, Cobar is suffering significantly in terms of drought at the moment and water security. There was funding provided through Resources for Regions for a water treatment plant there and although not a formal benefits realisation assessment, we have gone and looked and seen that yes, that has improved water security for the Cobar community.

**The CHAIR:** So those changes were informed by the audit report? Or assisted along?

**Mr HANGER:** Yes. Resources for Regions has run for six rounds and we learn from each round. Obviously we will take on board the recommendations from the audit report so that benefits realisation is captured for future rounds.

**The CHAIR:** If there are no further questions from Committee members, I was going to look to the Audit Office to see if there was anything they would like us to follow up?

**Ms CRAWFORD:** No, I think we have covered all the matters raised in this audit so nothing further to add.

**The CHAIR:** Thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing and you also undertook to take one on notice. Your replies will form part of your evidence and be made public. Are you happy to provide written replies to any further questions?

**Mr DRAPER:** Yes.

**Mr HANGER:** Yes.

**The CHAIR:** Thank you for appearing before the Committee today.

**(Mr Draper, Mr Hanger, Ms Mackay and Ms Bennett withdrew.)**

**(Short adjournment)**

**MELISSA GIBBS**, Director, Policy and Sector Development, Office of Local Government, NSW Department of Planning, Industry and Environment, affirmed and examined

**The CHAIR:** I welcome you here today, Ms Gibbs, as a representative from the Department of Planning, Industry and Environment. Thank you for appearing before the Public Accounts Committee. Can you please confirm that you have been issued with the Committee's terms of reference and information about the standing orders that relate to the examination of witnesses?

**Ms GIBBS:** Yes, I have.

**The CHAIR:** Do you have any questions about this information?

**Ms GIBBS:** No.

**The CHAIR:** Would you care to make a brief opening statement before the commencement of questions?

**Ms GIBBS:** I would, thank you very much. Thank you for the opportunity to appear before you today. The Office of Local Government very much welcomes the shared services in local government performance audit. The performance audit provides a clear picture of how efficiently and effectively current shared service arrangements between councils are being carried out. Most importantly, it also highlighted some areas for improvement. The performance audit noted that councils have specific responsibilities under the Local Government Act for the administration of their areas and that the Act includes principles to guide councils in this task. For example, in carrying out their functions councils should plan strategically. They should provide best value for residents and ratepayers. They should ensure that all decision-making is transparent and decision-makers are accountable. They should work cooperatively with others and be responsible employers.

The Office of Local Government welcomed the findings related to the need for councils to undertake shared services in a strategic way by formally assessing their costs and benefits or investigating alternative service delivery models, rather than assuming that sharing a service is going to deliver cost savings or service improvements. We also welcome the findings relating to governance and the need for councils to demonstrate transparent decision-making and accountability and to ensure that the needs of communities are met. The Office of Local Government is pleased to provide further advice to the Public Accounts Committee about the progress in achieving the audit recommendation relating to the Office of Local Government. The Office of Local Government reported to the Public Accounts Committee in mid-2019 that this recommendation has been completed, largely through the implementation of the joint organisations model, including the establishment of 13 joint organisations across New South Wales.

While joint organisations were still being piloted at the time the shared service performance audit was being undertaken, joint organisations are now in place and have addressed many of the risks with shared service governance models highlighted during the performance audit. Joint organisations have been able to harness many of the opportunities identified in the audit. For example, joint organisations are able to deliver services regionally on behalf of their member councils where appropriate powers and delegations are in place. Joint organisations are able to employ staff and administer grants regionally on behalf of all member councils without one council bearing the risk. Joint organisations are able to regionally accept tenders and undertake procurement on behalf of their member councils without having to go back to individual councils for formal resolutions. Staff are able to be transferred seamlessly between councils and joint organisations without loss of entitlements. Most importantly, joint organisations are proving to be strong strategic partnerships between councils and they are already delivering important regional infrastructure and attracting economic investment.

Given their collaborative nature and robust governance structure, joint organisations are now uniquely placed to support the development of further guidance on sharing services in local government. To this end, the Government recently provided each of the State's 13 joint organisations with an additional \$150,000 in funding for them to develop and prepare capacity-building projects. While these projects are going to be covering a range of different aspects, there are a number of projects that are really focused on shared services and models for undertaking shared services in a better and more strategic way. There are a number of joint organisations that are going to be developing best-practice models for joint procurement. They are going to be developing frameworks for collaborative shared services, regional procurement plans and regional workforce development strategies.

The learnings from these projects and from this investment will directly inform the local government sector on how to undertake shared services in a more strategic way, empowering the local government sector by providing funding and working closely with them to develop these resources and these guidelines, which is in line with the Government's ongoing commitment to collaborating more with the local government sector and to

developing capability from within the local government sector, empowering councils to be strong partners in the State's system of governance. This way we will be able to empower councils and joint organisations to develop the skills that they need to undertake shared services better so that they will be able to do better cost benefit analysis and improve governance, project management, monitoring and reporting.

Putting the focus on council capability-building up front in this way will support councils to determine the most appropriate vehicle to deliver services to the community. Ultimately, the Office of Local Government sees that sharing services is the outcome or the product of good regional collaboration, not just a vehicle to deliver it. The strengthening of good regional collaboration through joint organisations over the past year and a half has paved the way towards building this capability and guidance.

**The CHAIR:** Thank you for that opening statement. We understand that things are always evolving, even from the time the audit was handed down. The programs were always in a state of evolution as particularly these joint organisations progress. In your opening comments you will have touched on many of the issues that members would like to refer to. Please forgive us if we are asking something that you feel that you have answered. We will also defer at the end, if we have time, to the Audit Office to see whether we have touched on those issues that are most relevant. Part of the role of the Office of Local Government [OLG] is working with the local government sector on policies and programs to strengthen the sector, including service delivery.

The audit found that the Office of Local Government does not provide specific support or guidance to councils about effectively sharing services, despite this being a widely used delivery model across the sector. Specifically, the audit recommended that the Office of Local Government should, by April 2019, develop guidance which outlines the risks and opportunities of governance models that councils can use to share services. OLG indicated in its response that a joint model comprising 13 organisations had been adopted, which provides a framework for rural and regional councils to undertake and deliver shared services to their member councils if they choose to do so. To what extent are councils now using the 13 organisations to govern their shared service arrangements?

**Ms GIBBS:** The 13 joint organisations have been established in regional New South Wales. Of the councils that were eligible to join a joint organisation—I do not have the figures here, but something like 90 per cent of councils have chosen to join. There is only a small number that are not a member of a joint organisation. The Office of Local Government and other parts of government are working very closely with those councils to encourage them to join, because it is a robust governance structure that has been established under the Local Government Act. It is appropriate that municipal functions that councils might work on together are done underneath the guidance and underneath the auspices of the Local Government Act. Those organisations are available for councils to join and they are the appropriate vehicle and the preferred vehicle by Government for councils to undertake shared services together. There is nothing that they cannot do under the joint organisation [JO] model that they can do together. In fact, there are more things that they can do together under the joint organisation model than they can do outside of it. So it is a formal system, but for all intents and purposes it operates like a council.

It is comprised of elected representatives, who are accountable to their councils and to their community. All decisions are made in an open forum. They have a code of meeting practice and a code of conduct. They are required to disclose pecuniary interests and conflicts of interest in the same way that councillors do when they are acting as part of the governing body of a council. To the extent that they are available—as I said, most councils have joined—they were formed only about 18 months ago. A lot of them have spent time transitioning from their previous regional structures, which were in place, which were not recognised under the Local Government Act, so has been a bit of time working out the governance and putting their policies and practices in place.

Now 12 months down the track—it was 12 months down the track when the Minister announced that she would provide each joint organisation with an additional \$150,000—it was the time for those councils to then embed and bed down some of the projects that they wanted to work on. In the first 12 months of their operation, they were required to develop a regional plan and to identify the regional strategic priorities with their member councils. Most of the regional priorities included things like wanting to share resources, share staff and undertake functions together as part of the joint organisation. So the injection of funding is to allow those councils to do further work on making sure that they have the appropriate systems in place to develop guidance materials for other joint organisations and other councils to learn from.

**The CHAIR:** I did neglect to pass on the message from the member for Keira, Mr Park, that he had an engagement that he had to leave for. He wanted me to apologise in advance; I do it post his departure and I apologise for that as well. Thank you for that answer. Once again I believe that in your answer just then you have alluded to or touched on, at least generally speaking—are these organisations now addressing the deficiencies identified specifically in the audit in the governance set-up, ongoing management and review of shared services?

**Ms GIBBS:** They certainly tick the box as far as governance is concerned. The councils reported that there were not particularly fantastic governance structures for them to undertake shared services through. The joint organisations are now available for councils to undertake those shared services so that they can share the risks and share the costs in a more robust way. In terms of actual guidance in undertaking shared services, they are now in the box seat really to be able to trial some different ways of doing things. We will work with them—and we have worked very closely with them since they were established—to make their findings available to other councils and to other joint organisations. There is actually a network of these joint organisations. They meet in Parliament House—they are meeting next week—regularly with Ministers and Ministers' officers. The Office of Local Government assists them in that task and helps them to come together and coordinate their activities.

**The CHAIR:** I think you indicated that 90 per cent of councils that availed themselves of the opportunity. So that leaves 10 per cent—not so many but a significant number of councils—that are not party to joint organisations. What happens with them? Is there assistance? Do you believe there is a reason why they choose not to become part of the JO?

**Ms GIBBS:** It is a voluntary model, so councils need to opt in to join and they must pass a formal resolution. The Minister cannot proclaim them into a joint organisation until she is satisfied that it is a voluntary decision that they have made. The reasons are varied. A lot of it has to do with individual local circumstances where some councils are just not convinced of the value. Some of them have some issues with their neighbours that go back for many years. Because they have emerged through, in a lot of cases, existing organisations and they are changing the way they operate, there is some history of decisions that might have been made in the past that those councils feel do not favour them.

The longer the joint organisations are in operation and working under the Local Government Act, the more we are finding that the councils that are not involved are now putting up their hands to want to be involved. Wagga Wagga recently just joined the Riverina Joint Organisation a week or so ago. We believe other councils are considering their options. The Minister has written to councils to ask them what some of the barriers are that are impeding them from joining. The Office of Local Government is working with those councils to encourage them to consider joining and assisting them to overcome any barriers that there might be to them joining.

**The CHAIR:** Ms Gibbs, could I ask specifically as to the establishment of the membership and the voting rights? Are all joint organisations using an equality of vote—one director per council? If that is the case, is there any disquiet about the equality of representation compared to the population of a council? It is something that I had observed before and I am not sure if it is still an issue.

**Ms GIBBS:** That was an issue in the early days when different models of joint organisations were being piloted. The joint organisations were piloted over a period of five years, so a lot of different models were trialled. In the end through an evaluation process that was undertaken at the end of those trial periods, it was quite clear that one-council-one-vote was the preferred model and the fairest way to ensure that each council had a fair vote. Since that has come in, I have not heard of any disquiet about that model. I think the fact that it was decided early on in the piece meant that it was done and dusted. The argument was accepted and people tended to move on.

**Ms FELICITY WILSON:** Thank you, Ms Gibbs, for being here today. I wanted to talk about metropolitan council shared services. Obviously, the joint organisations model that you are talking about is for regional, rural or remote councils. Do you have any comments about shared services for metropolitan councils?

**Ms GIBBS:** The Government at the time offered joint organisations to regional councils only to begin with. For those of you who might remember, there was a process of local government reform call the Fit For the Future process.

**Ms FELICITY WILSON:** I think we all remember.

**Ms GIBBS:** I am sure—and so do we. One of the findings from the Independent Local Government Review Panel, which led to the Fit For the Future process, was that rural councils in particular needed some help in understanding how they relate to each other in a regional setting, particularly when there is often a large regional centre surrounded by smaller councils, which are dependent on that centre, and the centre is also dependent on those councils for its growth and strategic importance. So the focus initially was on regional New South Wales. At the time the joint organisations were introduced there was a separate local government reform process—a particularly unpopular one—going on in the metropolitan areas.

Since that time and because, I think it is fair to say, there has been a bit of a reshaping of regional boundaries in Sydney because of those mergers and the creation of new councils, some of the existing regional structures are also undergoing some sort of resettling after that period. To be quite honest, we have not been requested—the Government has not had any request to form joint organisations in metropolitan Sydney at this stage. As I understand it, it is still government policy to only offer it to regional New South Wales. But, having

said that, we also have not been inundated with requests to establish them—or any request for that matter—in metropolitan Sydney of late.

**Ms FELICITY WILSON:** So there are a range of the regional organisations, I guess across Sydney. Does the Office of Local Government take any role in providing advice, looking at their governance models or the way in which they undertake decisions around shared services, or is it more that they are left to manage things themselves and will come to you if they feel they need to?

**Ms GIBBS:** It is more a case of the latter. They tend to have access to their own skills and resources and their own legal advice and will quite often just come to the Office of Local Government when they are ready to embark on something that may need our approval, or they might give us an early heads-up of what they are thinking so that we can be mindful of the fact that that might be coming our way down the track when it does come to us for approval. But they tend to be able to manage their own affairs and gather their own advice and support.

**Mr JUSTIN CLANCY:** You have spoken about the JOs and their many functions and the role that they play. I am just interested in the measure of success of the joint organisations both collectively but also as individual JOs. Is there an evaluation framework, benchmarking between JOs?

**Ms GIBBS:** The Government undertook to evaluate the joint organisation model about 12 to 18 months after they were formed. In discussions with the joint organisation network it was thought that it was best to wait until the latter half of this year before we undertake that evaluation, but there are most definitely plans to undertake an evaluation of how the joint organisation model is working, because it did come with some design criteria, and if it is not working what actions the Government and councils themselves might want to take to respond to the evaluation that we undertake. We started talking to the joint organisations about what the evaluation framework might look like about six to eight months ago, but decided to wait until the latter part of this year before we undertake that evaluation.

**Mr JUSTIN CLANCY:** You said you have identified that some of the rural and remote councils needed assistance and that is part of the inception of the joint organisations. Some of the councils surveyed lacked the capability required to establish and manage shared services. Apart from the joint organisation structure are there other steps that have been undertaken to help build the capability of councillors and council staff in assessing and managing shared services?

**Ms GIBBS:** I mentioned that the Government was interested in making sure that joint organisations are capable of becoming self-sustaining and being the best that they can possibly be. That is why the Minister has allocated an additional \$150,000 to each joint organisation to identify projects that they can undertake to become more self-sustaining and more capable organisations. A number of those joint organisations are actually developing guidance and assistance and support and trialling different sorts of shared services arrangements, which is great because it is better for the sector itself to identify good practice than it is for government to do so and it is empowering those councils and those organisations to come up with those good practice examples.

**Mr JUSTIN CLANCY:** Apart from the JOs are there resources to help improve the learnings, the knowledge within councils—the councillors and council staff—to help them embark on shared services?

**Ms GIBBS:** Not at this stage. However, you might be aware that from the 2020 local government elections councils are required to have professional development plans for all of their councillors. We will be working with councils to help them go through that process of identifying what sort of capability councillors need through that process and if there is a need for that sort of arrangement we will talk to the local government sector about who is best to provide that guidance and support. Quite often the sector itself, as the audit showed, is better placed to provide that guidance and support, but if it is determined that the Office of Local Government should have a role in that we will certainly consider that.

**Mr LEE EVANS:** The audit report also documented a range of governance models for shared services used by councils including incorporated associations, contract joint ventures and council-owned companies. How can councils best ensure that the governance model chosen is fit for purpose for them?

**Ms GIBBS:** Local councils are self-governing bodies; they operate under the Local Government Act framework. Quite often they are best placed to make those decisions themselves about the most appropriate structures for them to operate under. The audit report also made mention of the fact that councils need ministerial consent before they form companies and corporations. If they choose to undertake some of their shared services activities through those different means, those applications would be assessed based on the merit of those proposals.



**The CHAIR:** At this stage, unless there are any further questions from the Committee members, I once again look to the Auditor-General and the Office of the Auditor-General as to whether or not there are any further areas that they would like to present.

**Ms CRAWFORD:** I think each of the questions that you posed are the exact right questions to ask. I think that certainly the JOs have been a great support, but the capability question in councils probably is still a little bit of a gap, which I think you are saying you are leaving to them to work out rather than the OLG stepping in.

**Ms GIBBS:** Empowering them to do so and supporting them to do so. Quite often the best reforms are those that are the most popular and the best reforms are the ones that come bottom up rather than top down. It is in keeping with the Government's view now that collaboration with the local government sector and encouraging them to be masters of their own destiny is the preferred approach at the moment, particularly with something like this. But we see that we have a very important role in promoting that good practice and promoting those better practices amongst councils and encouraging them to adopt that good practice and to talk to others and learn from their peers.

**The CHAIR:** Thank you, Ms Crawford. Ms Gibbs, I thank you as well. From the very outset, with your introductory comments, I think you have fleshed out the issue quite well, it seems to me. With joint organisations another benefit is that while they are representative, they do have representation on them, because of the nature of it they are somewhat removed from the vagaries of the changes of the electoral cycle. So I think that is a good thing as well, particularly if we get the structure within the JO right, that people move into it and they have got a very solid structure that should be quite robust, and it seems to me that that is evolving through this process, certainly from the answers you have given.

I thank you for that. I thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply within five days to any questions that are advanced to you?

**Ms GIBBS:** Yes, I will.

**The CHAIR:** Thank you for that. With that, we have come to the conclusion of your evidence. Once again, I thank you for your attendance and for the information you have provided to the Committee.

(Ms Gibbs withdrew.)

**CHRISTOPHER ALLEN**, Director, Sector Performance and Intervention, Office of Local Government, NSW Department of Planning, Industry and Environment, affirmed and examined

**LYNETTE BROWN**, Manager, Investigations, Office of Local Government, NSW Department of Planning, Industry and Environment, affirmed and examined

**The CHAIR:** We move on to examine Performance Audit Report No. 303 entitled *Fraud controls in local councils*. I welcome representatives from the Department of Planning, Industry and Environment. Thank you for appearing before the Public Accounts Committee today. Can you please confirm that you have been issued with the Committee's terms of reference and information about standing orders that relate to the examination of witnesses?

**Mr ALLEN:** Yes.

**The CHAIR:** Do you have any questions about this information?

**Mr ALLEN:** No.

**The CHAIR:** Would one of you like to make a brief introductory statement?

**Mr ALLEN:** Chair, I did not prepare to make a statement. I thought we would just be open to questions that the Committee may have for us.

**The CHAIR:** Thank you. Obviously you are well versed in the audit report we are referring to, so we will do exactly what you suggest and go straight to questions. Without detailing what was embedded in the audit, in light of the deficiencies in local councils' fraud controls identified in this audit and recent ICAC investigations that have revealed fraud in local councils, how confident are you that councils are properly applying the model code of conduct for councils, which describes expectations for ethical conduct and the avoidance of fraudulent behaviour?

**Mr ALLEN:** In response to your question, following the Auditor-General's report that was issued and that we are here to discuss, the Office of Local Government issued a circular at the end of 2019, which was to advise councils on various strategies that they should be taking to address the issues of fraud control and also public interest disclosures. The advice that we provided councils in this circular was to review the controls and assess their efficacy against the Audit Office fraud control improvement kit, which was issued in 2015. In terms of the public interest disclosures, the advice provided to councils was to develop an internal reporting policy for the management of public interest disclosures, referring councils to the reporting policy available on the NSW Ombudsman's website. The capacity that we started off with is drawing the attention of councils to the relevant legislation that they are responsible to report under and also to guide them in the development of appropriate models of policy that they should be adopting and introducing across council.

In terms of confidence, there are 128 councils across the State. The process of educating staff to new processes and becoming more familiar with policies that are in place does take time. Certainly, when issues are raised with our staff then they are either addressed and assessed by our teams for relevant action by OLG officers or they will be referred, in the case of fraud issues, to the ICAC, which is why the ICAC undertakes those investigations. They are reported to the ICAC by the OLG and responsibility for that rests with the ICAC.

**The CHAIR:** Thank you for that answer. Have you completed your answer in that respect?

**Mr ALLEN:** Yes, if I have missed anything—

**The CHAIR:** I do not know that we have completely finished with that one, but I am going—

**Mr ALLEN:** I am happy, but if I have missed something, I am sorry.

**The CHAIR:** No, but I will hand questioning to Mr Evans.

**Mr LEE EVANS:** Fleshing that out, all 128 New South Wales local councils were asked to complete a survey to assess their fraud controls against the 10 attributes set out in the Audit Office's fraud control improvement kit, with 83 councils or 63 per cent completing the survey. Has the OLG reviewed the fraud control procedures of the 45 councils that did not respond to the audit survey? If so, how many have now implemented the controls recommended in the 2015 fraud control improvement kit?

**Ms BROWN:** We do not know the councils, to be perfectly honest, which ones they are. Our response has been to issue a circular to councils and bring their attention to the kit so that they can review their practices themselves. We have not followed up with those specific councils, because I do not have the names of those

councils. I am not sure if they have been provided to our governance team in the OLG. The Audit Office might be able to answer that.

**The CHAIR:** That might be subject to further questions or we might follow up at a later time.

**Ms FELICITY WILSON:** Thank you very much for being here. I have some concerns, to be frank, about whether or not we have councils that are complying with the recommendations of the Audit Office. The recommendation from the Audit Office by April 2019—Mr Allen you said that a circular was sent out by the end of 2019—but by April 2019, the Office of Local Government worked with councils to ensure their compliance. Correct me if I am wrong, but sending a circular to councils does not suggest to me working with councils to ensure their compliance. The lack of confidence that you have in whether the councils are complying has me somewhat concerned about whether or not they have implemented these requirements and whether they will implement these requirements.

**Mr ALLEN:** Firstly, I need to correct for the record that I did say November 2019, but it was actually 20 November 2018. I do apologise for that.

**Ms FELICITY WILSON:** Thank you.

**Mr ALLEN:** The advice was provided the same year. In terms of working with councils, the Office of Local Government has established a group called the council engagement team. Council engagement managers are dispersed across the State to work closely with all councils in the State to provide information back to the Office of Local Government on a range of issues that affect all councils, one of which are the issues that fall into my portfolio including the responsibility to report issues of maladministration and so on. As those issues are reported to us, our teams become involved in assessing the information that is provided to determine whether or not it falls within the responsibilities of the OLG and the Act. If it is issues such as fraud that do not reside with the OLG then our officers will make an assessment and liaise with the appropriate agency, in this case the ICAC, to refer those issues to the ICAC for investigation.

In doing so, we have established a working group with the other State agencies involved that goes back a number of years but has grown in its membership. This working group is the local government liaison group. There is a meeting conducted every three months of those agencies, in March, June, September and December of each year, where all of the agencies involved confer on issues that have been reported that affect the sector. Those agencies include ourselves, the NSW Ombudsman, the ICAC, OLG, the Information and Privacy Commission and the Audit Office. The agencies are working together when things are reported to us, so that we can allocate the appropriate agency to deal with the issues. That is happening as a matter of routine.

**Ms FELICITY WILSON:** Obviously reporting is a crucial part of this and it is an element of the Audit Office's recommendations. Part of this is also about ensuring ethical conduct and preventing fraudulent behaviour. Can you talk us through your council engagement team? Are they proactively working with councils to ensure they have an understanding of the obligations and can implement the appropriate practices to meet those obligations?

**Mr ALLEN:** Yes, I can confirm that our engagement managers are all allocated to a certain number of councils across the State that they have built a rapport with at various levels of council administration. In travelling out to the councils across the State, as issues arise with them, part of the responsibility is to bring the council's attention to the relevant policies or legislation that they are responsible for. As I said earlier, if issues are identified that our engagement managers are concerned about or that council is having difficulty in addressing, those issues will be reported back to the OLG and the relevant area of the department—or our office will take control of it at that point and start the direct liaison with the council concerned.

**Ms FELICITY WILSON:** I know it is a large task. If I may ask, based on the Chair's first question about confidence that councils are properly applying the model code of conduct, which includes expectations of ethical conduct and avoidance of fraudulent behaviour, does OLG have a program or a timeline by which they intend to have confidence in all 128 councils meeting those expectations?

**Mr ALLEN:** In terms of my overarching comment at the beginning about the fact that there are so many councils and you need to develop that skill, it does take time for those kinds of skills and familiarity with legislation to really sink in so that they can be clearly understood. It tends to be that when issues are identified they come to our attention and then we can intervene. Another part of what we do within the OLG and working closely with the Audit Office is monitoring of the financial performance of the councils, for instance. When the Audit Office reports come to us, and before the Auditor-General releases her reports, staff from the Audit Office will liaise with us and bring issues to our attention that then assist us in trying to work with councils during the following year to identify particular councils that may be having deficiencies or experiencing difficulty. Then we can provide attention to those councils specifically.

In March of 2021 the legislation under the Local Government Act will require all councils to have in place an audit risk and improvement committee. At the moment there have been a number of submissions from councils in relation to the regulatory framework that will embody those responsibilities, but we see that as a vehicle that will very much enhance councils' abilities across the State to be very familiar with their responsibilities and have an independent view of those functions within council.

**Mr JUSTIN CLANCY:** Like the member for North Shore, I am interested in how OLG is working proactively with councils on fraud prevention and I am interested in if you are satisfied with the amount of training provided to council staff to identify, respond to and report suspected fraud?

**Mr ALLEN:** There is always room for improvement. I would not say that we are completely satisfied, but I would say that we are seeing positive signs towards a shift towards a more proactive approach in councils. It does take time. It is not always a case of introducing something or directing people to legislation, as we have done, to immediately fix an issue. It is about the mechanisms or the staff within councils to become more familiar. My colleague Ms Gibbs mentioned earlier that councils are largely independent bodies under the Act. They employ senior people to run them, obviously, in both the administration and the elected officials, but the administration is the key issue here. We are reliant on those senior frameworks within councils to actually implement the guidance that we provide to them.

That said, we need to continue our interactions with councils. As I mentioned, we have the council engagement managers, who proactively engage with them. As issues are brought to our attention, the various specialist areas within the OLG will work with the individual councils to assist them to address a particular issue and in that process educate them to their obligations. So there is a process that we—it is evolving, nothing is perfect. I think that we are seeing the right signs of improvement. It will be a slow process but I am confident that in future reports from the Audit Office there will be a clear shift towards a greater understanding of fraud responsibilities within councils. As I mentioned, we refer investigation of fraud issues to the ICAC. That is the appropriate State agency to deal with those.

**The CHAIR:** The Audit Office found that the cost, extent and nature of fraud in local councils is not clear. As we all know, the opportunities for fraud are diverse, from the low hanging fruit—the low-value but high-quantum of fraudulent activity—through to some fairly significant, high-value, direct monetary fraud. What steps have since been taken to improve reporting to provide a clearer picture of the level of fraud in councils or how to drive improvement in council fraud control systems?

**Mr ALLEN:** We have an annual calendar of compliance and reporting document that the OLG provides to the sector that details councils' reporting responsibilities and which includes responsibilities related to things such as public disclosures and so on for people that have been coming forward, and also their responsibilities to provide statistics within their annual reports. That goes out each year to provide that guidance to councils to provide that information in a very transparent way. That is one of our key mechanisms at the moment to put some of those issues on the record. In terms of routine reporting of issues that are evolving in councils, that really is reliant on our active engagement with councils through our council engagement managers and also the members of our relevant teams, both in terms of financial reporting and our investigation teams—in terms of what actions are being taken or what issues have been identified within councils and what their reporting obligations are.

I think probably our most stringent reporting mechanism is the annual financial reporting that comes to the Office of Local Government. Recently the Audit Office has participated in the process, which has been a massive improvement in terms of the rigour and the attention that is given across the State to councils' reporting of their financial management. The support of the Audit Office gives us more detailed guidance on how we can work with councils in the intervening years to improve on those issues that are identified by the Auditor-General.

**Ms BROWN:** We have a council governance team as well, that is in constant contact with our councils. They ring regularly to seek advice from the team and where there are any issues about the code of conduct, for example, which is their area of expertise, any concerns about a lack of complying with the procedures or reporting of matters that are happening there—they will work with councils to encourage reporting that and, if not, they will bring it potentially to our team to look at if there is an issue. The other thing—I have just been out to a rural visit and I was pretty impressed with the work that this rural council was doing in terms of its risk. It has set up an audit risk and improvement committee—it has called it that—it is the ahead of the legislation and it was doing an internal audit on IT-cyber risk. Some of the things that are happening out there that we hear about and that we see are really good. I understand, though, that not all councils are at that level and doing that.

They are using the Audit Office toolkit—this council was. They are using the State Government risk matrix, so this council has picked that document up. We encourage councils to use those documents that are already there that are best practice. From what I see and hear, there are councils doing good work, but, yes, not at every council, every day. I do not know the big picture, other than we encourage the reporting, we have some

reports come to us and where it is not appropriate for us to deal with it, we will refer it to police or ICAC, particularly if it is fraud. We do not deal with fraud.

**The CHAIR:** In talking about fraud, is there an understanding of the profile of fraud that might be prevalent or likely between metro, regional or rural councils? Would you see or expect differences in the nature of fraud that might be perpetrated in those areas?

**Mr ALLEN:** I think we would need to come back to the Committee on a response like that, Chair, if you do not mind. We have not specifically looked at that at the moment.

**The CHAIR:** The reason I ask that is that, for example, in high-density metropolitan councils there is an awful lot of oversight just by dint of the number of people around. They have quite high levels of staffing. There is sort of a self-regulatory approach or an oversight. Large regional councils are similar. Rural councils, in particular, are under-resourced in many areas and also because they are applying their limited resources across large areas. Sometimes, out of sight, out of mind—or not. I was wondering whether that had been identified as a further risk for particular types of fraud in those scenarios.

**Mr ALLEN:** I would say, in terms of "out of sight, out of mind", we are very much engaged with the rural elements of the sector—rural councils—as Ms Brown has just mentioned. I think the approach that we are looking to take over a longer period is teaching people to fish: It is really getting those skills imbued, particularly for rural councils. It is an excellent point you make about the skill set relative to a metropolitan council and people who are available to those in the regional areas. The idea of drawing people's attention to their legislative responsibilities is part of that education so that we can start getting people to understand that there are documents for them to go to as their guide, which set the obligations that councils have. Ideally, in doing so we are educating these staff, particularly in regional areas where we are trying to get that knowledge very much imbued in individuals who have those responsibilities within councils.

**The CHAIR:** On that basis, as you teach these people to fish—to use your metaphor—I would imagine that you can deploy resources to assist them quite rapidly.

**Mr ALLEN:** We can. Normally we have a number of frameworks within the OLG, including our visits program, which has been developed by some of our more experienced staff. It very much gives a framework so that, if we are undertaking a council visit, there will be a purpose to that and we will not only just go out to a council for perhaps the issue that has been identified as drawing our attention. We will then consult across the agency to identify if there are any other issues that other parts of the department want to have addressed, and the council visit program will then incorporate those things and will send people out. Ms Brown mentioned that she has just been out to a regional council recently to undertake one of those types of visits. We certainly do that right across the State for specific issues and, as I mentioned earlier, our council engagement managers regularly and routinely—that is their role.

**The CHAIR:** I was just going to ask that. The council visit program is separate to what might occur under the council engagement teams?

**Mr ALLEN:** Yes. It is much more specific and will go out for a reason.

**The CHAIR:** Thank you. How many staff would you have involved in doing that kind of engagement?

**Mr ALLEN:** In terms of a council visit, the team that is deployed will be based on what we have identified the need to be and what area of the OLG that they will be drawn from. If it is an issue of financial management, then it might be a member of our financial performance team that will go out. As I mentioned, we always make the opportunity to try and combine issues, particularly when people are travelling regionally, to make it a worthwhile visit so that we can draw resources from other parts of the office—that may be governance officers or policy officers—that will go out and undertake whatever particular action it is. We have the resources to identify the resources to deploy based on the need for a specific council at a particular point of time. Then there is that routine with the council engagement managers, who go out routinely. I appreciate Ms Brown reminding me of the work that our governance team does as well in terms of a lot of communication, usually over email or telephone, that happens frequently—on a daily basis.

**The CHAIR:** I will look to the Audit Office and Ms Crawford.

**Ms CRAWFORD:** I will defer initially to Ms Migotto and then I will just make one comment.

**Ms MIGOTTO:** In the context of some questions around the survey and how it is presented in the report and the findings from the survey, I just want to give a bit of context for why we took the approach that we did. We did use a self-report methodology in our survey of the councils. Given that that was a self-report framework, we did not publish the results of those data, nor did we provide those data to OLG. It was used to create a sort of

heat map or a sector snapshot of some common weaknesses across the council sector, which you can see on page 9 of the report and which extrapolates the data by rural and regional council so that you can see some of the common weakness areas there as well. We are prevented from making that a more robust piece of work, potentially, in the future by that lack of common definition for the purposes of reporting so that we can actually tie the use of the toolkit to outcomes in terms of incidents of fraud.

**Ms CRAWFORD:** Just for the future, we have not reported it yet but in our financial audits we are looking specifically at every council and how they are managing their fraud risk. So in our next report to Parliament that summarises the results of the financial audit, there will be quite a comprehensive update on how councils are tackling this issue.

**The CHAIR:** Thank you for that advice, Ms Crawford. If there are no further comments from the Audit Office or questions from Committee members, that brings us to the conclusion of your evidence. Mr Allen and Ms Brown, thank you for appearing before the Committee today. I note that the Committee may wish to send you additional questions in writing, the replies to which will form part of your evidence to be made public. Would you be happy to provide a written reply to any further questions within five days?

**Mr ALLEN:** Yes.

**Ms BROWN:** Yes.

**(Mr Allen and Ms Brown withdrew.)**

**RICHARD BEAN**, Chief Executive Officer , NSW Environment Protection Agency, affirmed and examined

**The CHAIR:** We are going to examine Performance Audit Report No. 304 entitled *Regulation of water pollution in drinking water catchments*. I welcome Mr Richard Bean, Chief Executive Officer of the NSW Environment Protection Agency. I welcome you here today but also to the role. It is a very significant role in New South Wales. It is my first opportunity to meet you and I imagine it is for other members as well. Thank you for coming along and paying respect to the process of the Public Accounts Committee review of the Auditor-General's report. It is very important that you have appeared in person so thank you very much. Will you please confirm that you have been issued with the Committee's terms of reference and information about the standing orders that relate to the examination of witnesses?

**Mr BEAN:** I have.

**The CHAIR:** Do you have any questions about this information?

**Mr BEAN:** No.

**The CHAIR:** Would you care to make a brief opening statement?

**Mr BEAN:** Thank you, Chair. Only to say a few things. First of all, thank you for the welcome. I have only been in the position for a couple of weeks but I will do my best to answer the Committee's questions. The Audit Office made seven recommendations following the audit that we are talking about this afternoon, all of which were accepted and all of which have been completed as I think was described in an update provided last year. The Environment Protection Agency [EPA] is focused on continuously improving its regulatory framework and in particular its practice. In relation to the particular recommendations of the performance audit, we have been undertaking a number of steps: introducing the regulatory assurance framework; improving the accessibility and currency of our regulatory policies; processes and practices; improving how self-reported information is captured and validated; improving the guidance and mandating frequency of site inspections under risk-based licensing, that is guidance for our staff who conduct the site inspections for example; and we have completed a review of impacts to the quality of Sydney's drinking water catchment Lake Burragorang by the scheduled activities that occur in the catchment area. I welcome your questions.

**The CHAIR:** Thank you very much for that. I note that the EPA has probably been having to add some additional resources to issues around water quality following the fires and the impact on the catchment.

**Mr BEAN:** Yes, throughout the State. The agency has been providing resources to a number of activities in relation to both the fires and the recovery. I would be happy to talk about that at any stage this afternoon in more detail.

**The CHAIR:** Where it is relevant I think that would be good. I do note that there has been a lot of resources extended and I acknowledge that. The issues of the possible impact of a burnt water catchment on the potable water supply is relevant, but contemporaneous is the auditor's report. If you wish to then extend into that as Chairman I would be very happy for you to do that. We will start off in the early part of the recommendations. The audit highlighted the lack of effective governance arrangements to support the devolved regional structure of the EPA. The EPA's performance framework has limited and inconclusive reporting on regional performance to the EPA's Chief Executive Officer and the board, as well is not monitoring the consistency or quality of its regulatory activities conducted across the State. Can you update the Committee on the results of the review of the performance framework as detailed in your response to the audit recommendation?

**Mr BEAN:** Yes. The authority has undertaken a number of particular steps in response to this recommendation. We have established a regulatory assurance and performance framework function in the organisation which compliments the other assurance work that we do including internal audits for example and the environmental audits that we conduct. The framework is designed to assess and look at our various regulatory activities to give us assurance that they are being conducted in an appropriate and effective way. The regulatory assurance and performance function monitors and evaluates and reports on the regulatory activities that we undertake so that the organisation as a whole has a clear idea of how they are running, whether they are appropriate and so on. It is risk-based; it focuses on things according to where we think most attention should be paid. We have also undertaken a refresh of our monitoring and reporting of key result areas and outcomes in recent times and that information is provided to me and the board.

Since we last reported we have established a risk, governance and planning branch that reports directly to the Chief Executive Officer. That is a new development since our update last year. That branch is separate from the operational activities of the organisation and separate from the corporate services function where you would find the CFO, for example. That branch has a particular focus, as you would guess, on developing our risk

framework and our planning functions so that we, both at the CEO level and at the board level, have those functions together reporting directly to us rather than through line management elsewhere in the organisation. I can give you some more information about the regulatory assurance and performance team if you would like or we can move on.

**The CHAIR:** I guess it depends on how long that would take, with respect. I will defer to your judgement.

**Mr BEAN:** I will leave it there but if you would like more detail we can certainly provide it on notice.

**The CHAIR:** According to the audit, the EPA has not implemented appropriate internal controls or quality assurance processes to monitor the consistency or quality of licence conditions for discharges into water across the State. The audit found the EPA did not have reliable practices for detecting breaches and non-compliances by licensees. In its response the EPA refers to its regulatory performance framework and the completion of the Information Governance Framework has addressed the shortcoming. Can you elaborate on the processes now in place to improve the consistency of your regulatory practices? Are you now satisfied that your internal controls have addressed the shortcomings identified in the audit?

**Mr BEAN:** Certainly, Chair. We have done a number of things. Some were referred to in the update. We have established a regulatory officers' library, which contains operational policy, process and guidance with a link to important tools within those processes. There are 183 documents in that library and we have mandated the use of it by our field officers. To me it sounded a little daunting but it is actually extremely easy to use and is used. There are manuals, for example, for people who conduct inspections. Since we last reported we have established a new branch, a regulatory practice branch, within the organisation. That is led by an executive director and it includes a number of directorates—for example, regulatory practice, regulatory advice and policy, and data intelligence and insight. We are confident that that will assist the organisation to ensure that its regulatory practices are up to date, appropriate and, in particular, consistent across the organisation and therefore across the State.

Also relevant to this recommendation, we have undertaken a complete realignment of the whole organisation so that where we formerly had our operations divided by regional area, which is a perfectly legitimate way to divide your organisation—though it is, there are some inherent difficulties associated with it, one of which is consistency across the State—so we have decided to organise the organisation along lines of function rather than regional area. Operations has been brought together—it will for ease of management purposes be divided into two groups but it will not have the same geographical divisions. We think this is sound management practice but one of the consequences will be a greater assurance of consistency across the State. Because we will not have those operations divided by geographical area, we will be able to devote our resources where they are needed most, senior management will have oversight over all of the operational activities we have rather than just a particular area, for example.

We think that both of those initiatives go to this recommendation. Although the establishment of the regulatory practice branch and the realignment of the operations branches are both very new, so we do not have direct experience or data on their effectiveness, we are very confident in the soundness of the reasoning behind them and we are currently engaged in implementing them. One of the motivations for doing so was to address this recommendation of the Audit Office. Yes, we are as confident as we can be at this early stage that we have addressed those recommendations and that those problems that formerly existed will be addressed.

**The CHAIR:** You may not have directly answered this question but you certainly alluded to it: Have these changes produced measurable improvements in outcomes and risk-based regulation and better compliance with environmental regulations? You seem quite confident.

**Mr BEAN:** We are confident that they are the right thing to do and we expect that they will produce the results you ask about but it is too soon to tell. We do not have data yet.

**Ms FELICITY WILSON:** Congratulations on your appointment, Mr Bean.

**Mr BEAN:** Thank you.

**Ms FELICITY WILSON:** The wellbeing of all of our communities and our environment relies on the work that you do at the EPA so we all wish you well. On that, when we come down to the very base underpinning this audit, it is all about us as a community feeling assured that we have safe, quality drinking water. I know you are talking about processes and practices, which are very important, of course, in delivering that outcome, but do you have confidence that you are actually detecting breaches, detecting noncompliance by licensees and ensuring the quality of our water supply? Because at the end of the day that is the base level requirement. I am not sure that I got from your answer that you are confident that we are in fact doing that.



**Mr BEAN:** Sure. The audit was about the higher level, as you say—about the processes to ensure consistency and so on. But at the level you are discussing, yes, we are. We inspect licensed premises that are considered of most importance, of highest risk, twice a year and lower risk less often—once a year or once every three years for very low-risk organisations. But nevertheless we do inspect them. Even mothballed facilities that are licensed facilities get inspected to make sure that they are safe. Although I have only been in the organisation a short time, I have been extremely impressed with the skill, dedication and enthusiasm of the staff, which is terrific.

The schedules, systems and so on that have been described to me and indeed what occurs on an inspection and what is found on an inspection give me confidence that we do find breaches where they exist and that we have tools available to us—a graduated scheme of responses from advice to penalty notices to prosecutions, according to seriousness, recidivism and so on. As far as I can, being so new to the organisation, I can say to you that I have confidence that licensed facilities are inspected, that they are inspected by diligent people and that breaches are identified and acted upon when they are found.

**Ms FELICITY WILSON:** With inspections of licensed facilities are they provided with advance notice?

**Mr BEAN:** No. Sometimes. It depends on the circumstances but no, not necessarily at all. The inspectors turn up and are empowered to require access and access to records and so on.

**Ms FELICITY WILSON:** My apologies. Are you confident that this balance of self-reporting and the compliance work is the right model?

**Mr BEAN:** Again, you ask for my personal confidence.

**Ms FELICITY WILSON:** In your capacity.

**Mr BEAN:** It is difficult because I am so new but I see nothing that should shake your confidence. Self-reporting is necessary. With the amount of data, the number of licences and so on, if the Parliament wished to resource the EPA to visit everyone every month I suppose it could be done but that would be a waste of resources. When you have a system that is a combination of inspection and self-reporting, what you need to know is that the self-reporting can be validated, that the reports are true and that they are made when they should be made. We have systems in place to assist in that. This goes to some of the other recommendations in the Audit Office's report that those reports are made in digital form so that they can be easily searched, cross-checked and so on and that they are followed up—that we have our own system of audits to go and check up on the self-reporting. Indeed that was the subject of one part of the Audit Office's investigation—that we targeted an internal audit and in fact found that a number of people were reporting that they had done some things that they had not done.

The high percentage of those licensees who were audited in our exercise that had not done everything they said they had done is on the face of it alarming but we audited them because we thought they were at risk. They were high-risk licensees and we thought we might indeed find fault with their reporting. So it is not as alarming as it looks, I suppose we would say. You probably could not properly extrapolate that across the whole licensee population. However, we did that because we wanted to be sure of exactly what you identify: that self-reporting works. And where we found that it had not, we insisted that it be rectified and we continue to do that across the board—to regularly check up on those that self-report to make sure they are telling the truth.

**Mr LEE EVANS:** Mr Bean, recommendation 4 in the Triennial 2016 Audit of Sydney Drinking Water Catchment Report prepared for the Minister for Energy and Utilities identified that Warragamba Dam, the source of almost 70 per cent of drinking water for Sydney, had worsening water qualities over the past 20 years due to an increase in salinity. The audit recommended that in order to address the worsening water quality in Lake Burragorang, the Environment Protection Authority should review the impact on licence activities and consult with the agencies to maintain water quality. In its response, the EPA stated that it had completed a review of the impacts and found negligible risks to water quality. Mr Bean, has the increased salinity identified in 2016 Audit of the Sydney Drinking Water Catchment been adequately addressed?

**Mr BEAN:** I think it is important to understand the framework for the regulation of the quality of Sydney water supply. The quality of the water in Lake Burragorang is principally the responsibility of Water NSW rather than the EPA which is not to say the EPA does not have responsibilities in that regard. We have responsibility for what we call point sources of pollution so, in particular, for the licensed activities that occur within the catchment area. It is those that we referred to when we said that the impact was negligible. We conducted a review of the potential impact of 81 licensed premises in the catchment area. The majority of the pollutant load came from eight sewage treatment plants that exist in the area and from four coalmines, two of which have ceased discharging since. As you noted, we found that the impact of the licensed activity was negligible.

The salt loads that licensed activities discharge into the catchment area are not the cause of any salinity in the water and their impact is negligible. There are all sorts of sources of salt and any number of other things that flow into the catchment area that are not related to the licensed activities in the area. Even having said that the tests we made assumed sort of maximum possible outflows so they are conservative. We think that the impact is even less than we reported and the licensed activities themselves are actually a long way from the lake. The closest is 44 kilometres away and the furthest 219. So that is a long way of saying that the EPA is confident that, to the extent that any of the activities that are within its remit contributed to the issues you raised, those issues are adequately addressed.

**Mr LEE EVANS:** I have a further question which is personal because Woronora, Cataract, Avon and Cordeaux dams are in my electorate. It has been reported—it was on Facebook so it must be true—that iron oxide levels are off the scale. That was prior to the recent rains, obviously. In the catchment areas to which I have referred there are coalmining activities. Would they have an impact on water quality?

**Mr BEAN:** I do not know the answer to that I am afraid. I can take that on notice if that is acceptable.

**Mr JUSTIN CLANCY:** Earlier you touched on recidivism and breaches. The audit did not consider there was adequate enforcement of non-compliance and breaches of the Act. Could you provide more detail about how the lack of enforcement of non-compliance that was identified in the report has been addressed? Will you tell us a bit more about the penalties and revenues for such non-compliance?

**Mr BEAN:** As you say, the audit found that the authority should implement some more appropriate and consistent regulatory actions in response to breach findings. So we focussed on ensuring that our staff who were involved in identifying breaches, and from that all the way through to the stage where a decision is made to take any regulatory action is consistent and transparent so that those in management can be assured that breaches do not slip through the cracks, and that the appropriate action is taken. We have centralised our procedures and guidance material to ensure that operational staff have access to it at all times and we have instructed them to make use of that access. We have introduced dashboards so that anyone, but in particular management, can see on their desktops in real time case and licence management, including outcomes and trends in action taken. In relation to breach findings, for example, they link directly to our licence and case management systems and they complement the pre-existing key performance indicator monitoring systems.

We monitor the volume and quality of breach reports for trends, including the absence of reports, and the corrective actions that have been taken so that we, in senior management and the board, can see that appropriate action is taken and is consistently taken in response to breaches. Where trends are identified and we think there is an issue in the response or action taken relating to non-compliances then we can take action to identify the cause of that and to take corrective action if necessary. Since our last update to the Committee, as I mentioned earlier, we have reorganised our operational divisions and, as part of this process, we have created our regulatory practice and advice division, and that is one of the things that it will be able to focus on: what action has been taken and is it the right action. We can modify our responses accordingly.

I can tell you, for example, the number of penalty notices we have issued in a year and the amount of fines we have collected and so on. I am not sure how meaningful that is without more information about what they are exactly for, which I do not have for you today, but they are many. For example, 7,500 penalty notices in the last financial year totalling \$3.7 million in fines. I can tell you that we have a very high success rate in prosecutions. Excluding littering matters, we have, in fact, a 100 per cent success rate in prosecutions. All of that is to say that we do take action that is at the higher levels of regulatory action. It is not all about advice and help and giving you another chance. We are not shy about issuing penalty notices and taking people to court. Certainly at the more serious level I have seen no evidence of the failure of those regulatory actions to stop the behaviour. I have no doubt that there are operators at various facilities in the State who are less well behaved than others.

I can assure you that since the receipt of this audit report we have undertaken those steps as I have described to make sure that we can tell whether we are responding enough and seriously enough and consistently across the State and that we do make use of the full range of tools available to us in response to breaches of the law.

**The CHAIR:** I will forecast that the Committee might wish to follow up on a number of matters. At this stage I understand the members of the Committee have probably exhausted their questions. I will look to the Audit Office as to whether they wish to make further comment in this regard.

**Ms CRAWFORD:** Thank you, Chair. Thank you very much, Mr Bean. I think your comments, for me, mean that the EPA has clearly taken our report quite seriously and had a good look at the arrangements. As you said I think in your opening statement, in a large, complex, devolved system such as this, the key is providing good guidance to those frontline officers and making sure that there is appropriate reporting back to the centre on

the actions taken. So while you may not have all of that to hand right this instant, the changes that you have reported today would go in that right direction.

**Mr BEAN:** Thank you. Yes, I think that is true. Chair, if I might just take a moment to publicly thank my staff who have been involved in the bushfire response. We have had officers attending all of the building impact assessment teams, participating in those teams, which have been around the State assessing the damage to people's homes and property. We have had people at the recovery centres to provide advice and we have been able to give advice to licensed premises that have been affected by the fire, which have been mercifully very few. There have been no major environmental incidents as a result of fire impact to licensed premises, which is something, at least, to be grateful for.

**The CHAIR:** Thank you for that little update. I have had cause to speak to Steve Beaman. He certainly gave me a good indication of just the workload that was being undertaken. I also acknowledge the work of the EPA in the recovery response to the fires. Thank you for appearing before the Committee today. Would you be happy to provide a written reply within five days to any further questions?

**Mr BEAN:** Certainly.

**The CHAIR:** Thank you very much for that. That brings us to the conclusion of the hearing. I place on record my thanks to witnesses who have appeared before the Public Accounts Committee inquiry today into the reports from the Auditor-General. I thank the representatives from the Audit Office, including the Auditor-General and staff, for being here today to assist us in doing that. I also thank Committee members who have been here with us today. I thank Hansard and Committee staff for their work because, the reality is, without all of that background work from the Committee staff in particular we would not be able to do this job.

**(The witnesses withdrew.)**

**The Committee adjourned at 16:17.**