

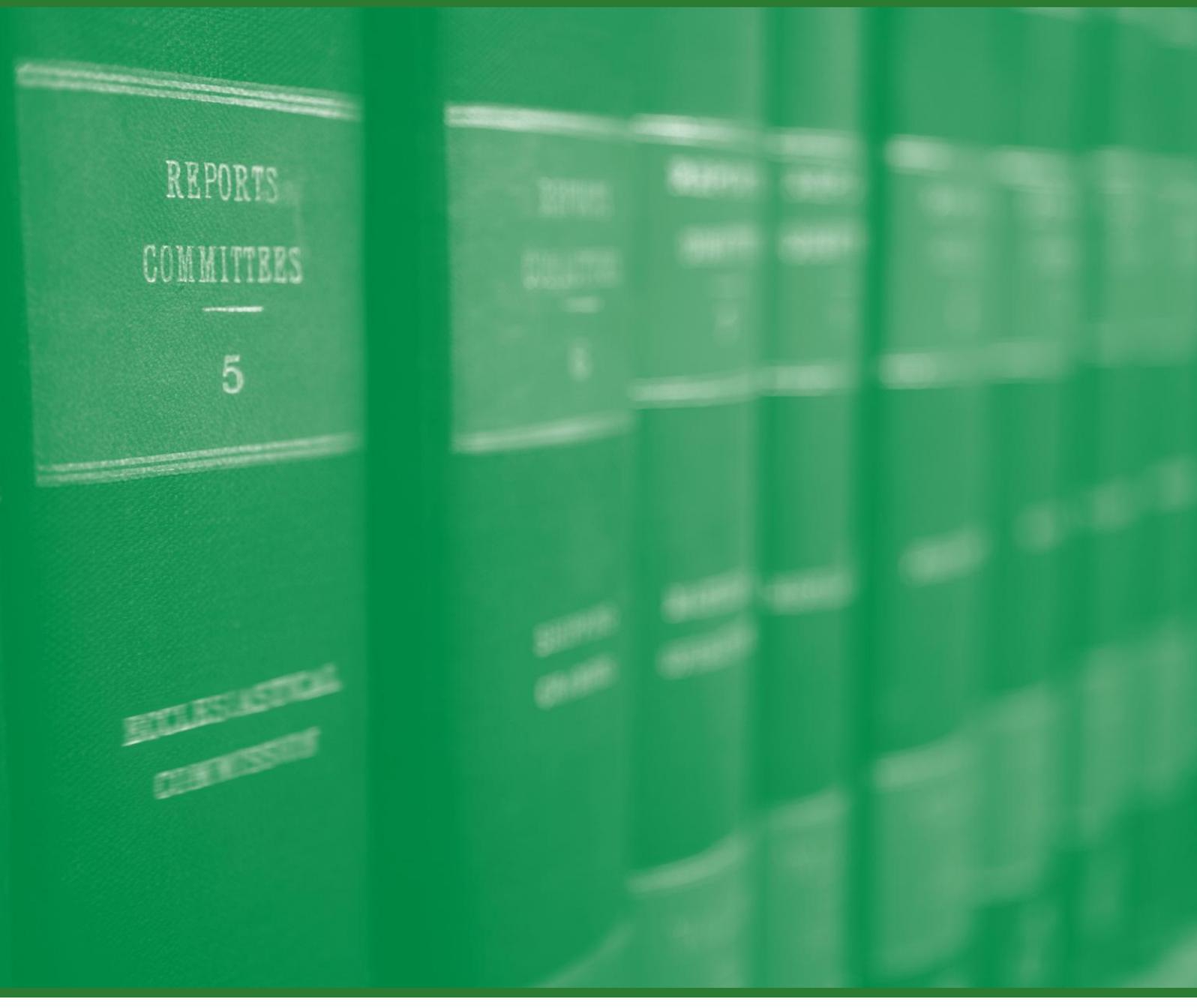


LEGISLATIVE ASSEMBLY OF NEW SOUTH WALES

# PUBLIC ACCOUNTS COMMITTEE

REPORT 5/55 – SEPTEMBER 2012

REPORT ON THE EXAMINATION OF THE AUDITOR-GENERAL'S PERFORMANCE  
AUDITS SEPTEMBER 2010–FEBRUARY 2011





LEGISLATIVE ASSEMBLY

PUBLIC ACCOUNTS COMMITTEE

REPORT ON THE EXAMINATION OF THE AUDITOR-GENERAL'S  
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The motto of the coat of arms for the state of New South Wales is "Orta recens quam pura nites". It is written in Latin and means "newly risen, how brightly you shine".

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# Membership

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# Terms of Reference

## **Public Finance and Audit Act 1983**

### 57 Functions of the Committee

(1) The functions of the Committee are:

....

- (c1) to examine any reports of the Auditor-General laid before the Legislative Assembly,
- (d) to report to the Legislative Assembly from time to time upon any item in, or any circumstances connected with, those financial reports, reports or documents which the Committee considers ought to be brought to the notice of the Legislative Assembly...

# Chair's Foreword

It is my privilege to present the Report on the Examination of the Auditor-General's Performance Audits September 2010 – February 2011. This is the second report of the Public Account Committee's audit review program to be tabled in the 55th Parliament.

The purpose of the audit review is to follow up on action taken by agencies in response to performance audits conducted by the Audit Office of NSW. As part of the follow up, the Committee questions agencies about measures taken in response to the Auditor-General's recommendations and, if required, conducts public hearings to examine witnesses.

The Committee examination is designed to test action taken on all performance audits in order to maintain a high level of scrutiny of the agencies under review. Concrete outcomes of this process have demonstrated the value of following up the Auditor-General's report recommendations.

The current report provides an examination of eight audits conducted into: NSW Lotteries Sale Transaction; Protecting the Environment: Pollution Incidents; Home Detention; Sick Leave; Electronic Information Security; Mental Health Workforce; Helicopter Emergency Medical Service Contract; and Coal Mining Royalties.

With some noted exceptions, the Committee is generally satisfied that the responsible agencies are now meeting their obligations and implementing the Auditor's recommendations. This has been partly due to the work and diligence of the Committee in pursuing the agencies concerned to elicit further responses on issues of concern.

The Committee has made nine key recommendations to NSW Government agencies to address various issues. These relate to enhancing electronic information security in NSW, delivering better mental health services, improving the efficiency and effectiveness of the mining royalty collection system, and strengthening the response to pollution incidents, thereby achieving better environmental outcomes for the people of NSW.

Finally, I record my appreciation for the assistance provided by the Auditor-General and the Audit Office staff. I also thank all Committee Members and the secretariat staff for their assistance in the inquiry process and the preparation of this report.

**Jonathan O'Dea MP**

Chair

# List of Recommendations

## RECOMMENDATION 1 \_\_\_\_\_ 16

The Committee recommends that Corrective Services NSW undertakes a review of the effectiveness of monitoring anklets worn by home detainees.

## RECOMMENDATION 2 \_\_\_\_\_ 29

The Committee recommends that the Department of Premier and Cabinet ensure that the new electronic information security governance arrangements outline reasonable minimum standards, policies, and rules to be established with which all NSW public sector agencies must comply.

## RECOMMENDATION 3 \_\_\_\_\_ 30

The Committee recommends that the Department of Premier and Cabinet's new electronic information security policy provides for a centralised mechanism to scrutinise implementation of electronic security measures by NSW Government agencies and ensure that the policy is implemented in an effective and consistent manner.

## RECOMMENDATION 4 \_\_\_\_\_ 49

The Committee recommends that NSW Health review the effectiveness of the State-wide Management Reporting Tool in providing reliable information on the size and profile of the mental health workforce by the end of 2013.

## RECOMMENDATION 5 \_\_\_\_\_ 49

The Committee recommends that, by the end of 2013, NSW Health conduct a review of Local Health Districts to assess whether and to what extent the Ministerial Direction for the Local Health Districts to use mental health funds as intended has been implemented.

## RECOMMENDATION 6 \_\_\_\_\_ 60

The Committee recommends that by 1 July 2013 the Department of Trade and Investment, Regional Infrastructure and Services develop and implement a policy of continuous improvement of its systems and procedures to ensure accurate and current information on royalty payments is in place.

## RECOMMENDATION 7 \_\_\_\_\_ 60

The Committee recommends that NSW Treasury publicly release a statement, following the working party's assessment of the merits of transferring the administration of royalties to the Office of State Revenue, detailing the outcome of the review by the end of 2012.

## RECOMMENDATION 8 \_\_\_\_\_ 69

The Committee recommends that by 1 July 2013, the Environment Protection Authority implements central reporting and analysis of the risk profiles of pollution incident reports to ensure that each incident is assessed for risk and that a consistent approach is being applied across the Department.

RECOMMENDATION 9 \_\_\_\_\_ 69

The Committee recommends that by 1 July 2013, the Environment Protection Authority implements a policy to aggregate or centrally analyse the use of licence variations to ensure the consistent application of variations and to provide an indicator for determining the effectiveness of the Department's regulatory actions in reducing environmental harm.

RECOMMENDATION 10 \_\_\_\_\_ 69

The Committee recommends that by 1 July 2013, the Environment Protection Authority implements an appropriate reporting mechanism for other authorities to which it refers pollution incidents in order to ensure that information about management of pollution incidents is received and analysed by the EPA.



# Chapter One – Introduction

## OVERVIEW

- 1.1 This is the Public Accounts Committee's second examination of the Auditor-General's performance audits tabled during the 55<sup>th</sup> Parliament, commencing with audits tabled from September 2010 and continuing through until February 2011.
- 1.2 In examining these audits, the Committee has looked into what the responsible agencies have done in response to the recommendations made by the Auditor-General. The Committee found that significant work has been done to address the issues raised in the audits. It is apparent that agencies have taken the audits seriously and instigated processes to implement those recommendations that were accepted.
- 1.3 Some of the recommendations will take time to implement, or are being addressed through the implementation of larger projects. The Committee encourages agencies to follow through on the work already started and commitments made, so that the potential benefits of the audits are fully realised.

## INQUIRY PROCESS

- 1.4 As per its legislative responsibility outlined in section 57 of the *Public Finance and Audit Act 1983* the Committee conducted an inquiry into eight performance audits completed between September 2010 and February 2011. It used a similar process to that used in the previous inquiry and in the 54<sup>th</sup> Parliament by examining each responsible agency's response to the Auditor-General's performance audit twelve months after the audit was tabled.
- 1.5 The process for these examinations includes:
  - inviting a submission from responsible agencies twelve months after the tabling of the audit;
  - referring agencies' submissions to the Auditor-General for comment; and
  - where the Committee determines that further information is required, inviting agency senior officials and the Auditor-General to a hearing and/or to provide additional information.
- 1.6 The Committee examined eight reports. There was only one audit for which the Committee sought a submission, but did not ask for additional information or proceed to a public hearing. This was the Auditor-General's report on the NSW Lotteries Sale Transaction.
- 1.7 The Committee sought additional information in writing about four audits. These were:

- Protecting the Environment: Pollution Incidents;
- Home Detention;
- Sick Leave; and
- Coal Mining Royalties (from NSW Treasury).

1.8 There were four audits for which the Committee proceeded to a more detailed examination. A public hearing was held on 18 June 2012 to seek further information about the remaining four audits. These were:

- Electronic Information Security;
- Mental Health Workforce;
- Helicopter Emergency Medical Service Contract; and
- Coal Mining Royalties (Department of Trade and Investment, Regional Infrastructure Services).

1.9 The Committee also sent the questions taken on notice during the hearing to the relevant agencies. Details of the witnesses who appeared at the hearing are included in Appendix Two.

# Chapter Two – NSW Lotteries Sale Transaction

## Introduction

- 2.1 Following a competitive bid process coordinated by Treasury, the sale of NSW Lotteries to Tattersall's Holdings Pty Limited – a wholly owned subsidiary of the Tatts Group Limited – occurred on 31 March 2010.<sup>1</sup>
- 2.2 The NSW Government received approximately \$1.011 billion from the transaction. This comprised cash and asset extraction in addition to an \$850 million payment from the successful bidder for an exclusive 40 year public lotteries licence, the purchase of shares in NSW Lotteries Corporation, the retention and use of unclaimed prizes, and other concessions.<sup>2</sup>
- 2.3 After the successful bidder was announced on 2 March 2010, various parties raised a number of concerns, alleging substantial deficiencies in the sale process. Specifically, it was suggested that the Tatts Group should not have been allowed to include the retention and use of unclaimed prizes in its bid.<sup>3</sup>

## The Performance Audit

- 2.4 The Auditor-General assessed whether there was waste of public resources or a lack of probity or financial prudence in the NSW lotteries sale transaction process. Specifically, the Auditor-General examined whether:
- acceptance of a bid based on an alternative transaction structure was in accordance with the rules for the bid process;
  - all bidders were provided with the same information in relation to the treatment of unclaimed prizes;
  - the value to the Government of unclaimed prizes was properly assessed; and
  - the successful bid's treatment of unclaimed prizes was legal.<sup>4</sup>

## Audit Conclusions

- 2.5 In his audit of the NSW Lotteries Sale Transaction, the Auditor-General found no indication of a waste of public resources or lack of financial prudence. Yet, the Auditor-General did identify a number of concerns in relation to the sales process.<sup>5</sup> These related to communication issues, more specifically the need for better clarity and consistent application of key terms as well as the need for consistency and formality of communication with proponents; and record-

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<sup>1</sup> NSW Auditor-General, 'Performance Audit: NSW Lotteries Sale Transaction', November 2010, p. 2.

<sup>2</sup> As above, p. 2.

<sup>3</sup> As above, p. 2.

<sup>4</sup> As above, p. 2.

<sup>5</sup> As above, p. 4.

keeping issues, particularly the need for formal documentation of important decisions to enhance accountability and transparency.

- 2.6 In relation to the question of whether acceptance of a bid based on an alternative transaction structure was in accordance with the rules for the bid process, the Auditor-General found no evidence that the successful bid was inconsistent with the rules. In fact, the Auditor-General found that the rules indicated that 'a proponent must submit a binding offer based on the Government's preferred transaction structure', but that a second binding offer, which is based on an alternative transaction structure, could also be submitted.<sup>6</sup>
- 2.7 However, the Auditor-General found that the key official document describing the bid process (the Process Letter) used the terms "transaction structure", "preferred transaction structure", "alternative transaction structure", "alternative structure", and "alternative structures for the Transfer", which were not well defined and had the potential to cause some confusion.<sup>7</sup>
- 2.8 His examination of the question of whether all bidders were provided with the same information in relation to the treatment of unclaimed prizes showed that there was no evidence indicating that all bidders were not provided with the same information in relation to unclaimed prizes.<sup>8</sup> The Auditor-General noted that information on the treatment of unclaimed prizes was provided to prospective bidders through formal letters, briefings from Communities NSW and an on-line data room.<sup>9</sup>
- 2.9 The Auditor-General also noted that while official documents and statements from officials involved in the sale evidently stated that unclaimed prizes would be transferred to the Government, bidders were also advised that 'proponents could not rely on any statement by or on behalf of the State during the process' and that 'the Minister retained discretion in the exercise of his function under the *Public Lotteries Act 1996*'.<sup>10</sup> The Auditor-General further noted that the process letter did not clearly state whether the Government could utilise ideas in bids, such as the proposal by Tatts Group to retain unclaimed prizes, to propose a new basis for subsequent bids.
- 2.10 The Auditor-General also assessed whether the value to the Government of unclaimed prizes was properly assessed and concluded that the lack of documentation available prevented him from directly examining the methodology and results of this assessment. However, the assessment of statements made, documents recreated, and other material provided by NSW Treasury enabled the Auditor-General to conclude that there was no indication 'that the value of unclaimed prizes was not properly assessed, based on the assumptions used'.<sup>11</sup>

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<sup>6</sup> As above, p. 3.

<sup>7</sup> As above, p. 3.

<sup>8</sup> As above, p. 3.

<sup>9</sup> As above, p. 3.

<sup>10</sup> As above, p. 3.

<sup>11</sup> As above, p. 3.

- 2.11 Nevertheless, the Auditor-General expressed concerns about the absence of detailed documentation – crucial for transparency and accountability purposes – about the assessment of the value of unclaimed prizes, which formed the basis for the recommendation by the Review Committee which was evaluating the bids.<sup>12</sup>
- 2.12 The final question the Auditor-General examined was whether the successful bid's treatment of unclaimed prizes was legal. In his report, the Auditor-General stated that he did not find any evidence to suggest that the inclusion of unclaimed prizes in the successful bid was precluded by the *Public Lotteries Act 1996*.<sup>13</sup>
- 2.13 The Auditor-General noted the NSW Treasury's advice that during the review of the bids the NSW Treasury's legal adviser discussed this issue with a representative of the Crown Solicitor's Office. Both concluded that 'there was no legal impediment that precluded the bidder from retaining unclaimed prizes in their alternative bid'.<sup>14</sup>
- 2.14 The Auditor-General noted that this advice was verbal with some email correspondence, and expressed the view that 'it would have been prudent for the legal advice to be obtained in writing'.<sup>15</sup>
- 2.15 NSW Treasury provided initial comments on the Auditor-General's report on 19 November 2010, welcoming the key findings of the Performance Audit. Treasury also explained that some of the recommendations had already been implemented and that the comments concerning an absence of documentation and record-keeping were acknowledged but not accepted by NSW Treasury and its advisers. Nevertheless, NSW Treasury stated that it will be mindful of issues highlighted by the Auditor-General in future transactions.<sup>16</sup>

### Auditor-General's Recommendations

- 2.16 The Auditor-General made six recommendations to ensure that future sales processes are improved.

<b>Recommendations</b>	
In the conduct of any future sales, NSW Treasury should ensure that:	

<sup>12</sup> As above, p. 4.

<sup>13</sup> As above, p. 4.

<sup>14</sup> As above, p. 4.

<sup>15</sup> As above, p. 4.

<sup>16</sup> As above, p. 5.

1.	where the Government chooses to conduct a process on the basis that “proponents could not rely on any statement by or on behalf of the State during the process” this point is continuously reinforced to proponents;
2	the Process Letter clearly states that the Government’s representatives involved in the transaction process cannot fetter the discretion or decision of a Minister;
3.	key terms are clearly defined and consistently applied to avoid ambiguity and confusion;
4.	significant decisions, advice and analysis of issues during the transaction process are formally documented and retained to improve accountability and transparency;
5.	significant guidance or advice to potential bidders is provided in writing; and
6.	arrangements for dealing with intellectual property that may be contained in bids are clearly defined and communicated at the start of the process.

### The Committee's examination

- 2.17 As part of its follow-up of the Auditor-General's Performance Audits, the Committee wrote to the NSW Treasury on 28 February 2012, inviting the agency to provide a submission detailing action taken in response to the Performance Audit. The NSW Treasury responded on 20 March 2012. The submission was forwarded to the Auditor-General for comment, and he in turn responded on 9 May 2012.
- 2.18 In its submission to the Committee, the Treasury responded to each of the Auditor-General's recommendations.
- 2.19 **Recommendation 1**, that where the Government chooses to conduct a process on the basis that 'proponents could not rely on any statement by or on behalf of the State during the process', this be continuously reinforced to proponents, was adopted. NSW Treasury advised that this recommendation was adopted for the WSN Environmental Solutions transaction, which was completed in 2011, and that it will be reinforced to proponents in future transactions.<sup>17</sup>
- 2.20 **Recommendation 2**, 'that the process letter clearly states that the Government's representatives involved in the transaction process cannot fetter the discretion or decision of a Minister', was accepted. NSW Treasury stated that 'the November 2010 process letter for the WSN Environmental Solutions transaction included a statement to the effect that Government representatives could not

<sup>17</sup> Submission 1, NSW Treasury, p. 3.

fetter Ministerial decision-making'.<sup>18</sup> NSW Treasury also advised that this recommendation will be taken into account for future transactions.<sup>19</sup>

- 2.21 **Recommendation 3**, that the key terms be clearly defined and consistently applied to avoid ambiguity and confusion, was also adopted in the WSN Environmental Solutions transaction. NSW Treasury advised that 'significant care was exercised to ensure that the terms in the process letters were well defined to limit any chance of confusion' and that this recommendation will continue to be taken into consideration for future transactions.<sup>20</sup>
- 2.22 **Recommendation 4**, that 'significant decisions, advice and analysis of issues during the transaction process are formally documented and retained to improve accountability and transparency', was accepted. NSW Treasury advised that this recommendation was adopted for the WSN Environmental Solutions transaction. Treasury also stressed that it will continue to ensure that the highest standards of accountability, transparency and probity are applied to future transactions.<sup>21</sup>
- 2.23 **Recommendation 5**, that significant guidance or advice to potential bidders be provided in writing, was accepted and adopted for the WSN Environmental Solutions transaction. NSW Treasury advised that this recommendation will also be adopted for any future transactions.<sup>22</sup>
- 2.24 **Recommendation 6**, that arrangements for dealing with intellectual property that may be contained in bids are clearly defined and communicated at the start of the process, was adopted and implemented in the drafting of the process letters for the WSN Environmental Solutions transaction. NSW Treasury also advised that this recommendation will continue to be taken into consideration by Treasury for future transactions.<sup>23</sup>

## Committee Comment

- 2.25 The Committee is pleased to note that NSW Treasury accepted all six of the Auditor-General's recommendations.
- 2.26 The Committee is also pleased to note that NSW Treasury has already implemented the Auditor-General's recommendations in the WSN Environmental Solutions transaction.
- 2.27 The Committee commends NSW Treasury for its commitment to continue implementing the Auditor-General's recommendations in future transactions.

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<sup>18</sup> As above, p. 3.

<sup>19</sup> As above, p. 3.

<sup>20</sup> As above, p. 4.

<sup>21</sup> As above, p. 4.

<sup>22</sup> As above, p. 4.

<sup>23</sup> As above, p. 5.

## Chapter Three – Home Detention

### Introduction

- 3.1 Home detention is a sentencing option intended to punish less serious offenders by depriving them of their liberty without sending them to prison. It allows suitable offenders to serve prison sentences of 18 months or less in their own homes.<sup>24</sup>
- 3.2 The rationale for detaining suitable offenders in their homes is to: a) keep them away from hardened criminals; b) allow them to maintain family and community ties, employment and access to community services; and c) enable them to get treatment for the problems that led to their offending.<sup>25</sup>
- 3.3 In order to be eligible 'the offender must not have a history of sexual, domestic violence, stalking, or drug trafficking offences'.<sup>26</sup> Using the criteria as a guide, only the sentencing magistrate, judge or the State Parole Authority (SPA) can request an assessment of an offender's suitability for home detention.<sup>27</sup>
- 3.4 Corrective Services NSW Community Compliance Group (CCG) administers the home detention program by subjecting offenders to intense supervision and extensive conditions, including the following:
- electronic monitoring;
  - acceptance of home visits from a CCG officer at any time;
  - agreement to regular drug and alcohol testing (no use of illicit drugs is allowed); and
  - compliance with all reasonable directions of a CCG officer.<sup>28</sup>
- 3.5 If an offender is suitable, the sentence, monitoring and supervision start immediately as the electronic monitoring equipment is installed the same day. If offenders fail to comply with the conditions of home detention, they face sanctions such as restriction of out of home activities. In cases where a home detention order is revoked, the offender is taken into custody to serve the remainder of their sentence in prison.<sup>29</sup>
- 3.6 Since it was introduced in 1997, home detention has been available in the Sydney metropolitan, Newcastle and Wollongong areas.<sup>30</sup>

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<sup>24</sup> NSW Auditor-General, 'Performance Audit: Home Detention: Corrective Services NSW', September 2010, p. 2 and p. 14.

<sup>25</sup> As above, p. 2.

<sup>26</sup> As above, p. 15.

<sup>27</sup> As above, p. 15.

<sup>28</sup> As above, p. 14.

<sup>29</sup> As above, p. 18.

<sup>30</sup> As above, p. 2.

- 3.7 In order to deliver these outcomes and manage home detention effectively, Corrective Services NSW has developed guidelines for participating CCG offices to use in delivering home detention.<sup>31</sup>

### The Performance Audit

- 3.8 The Auditor-General assessed how well home detention is delivered by Corrective Services NSW, focusing on key areas of access, consistency and cost effectiveness. Specifically, the Auditor-General examined whether:
- home detention is available across NSW;
  - home detention is delivered consistently;
  - the costs of home detention in NSW are less than fulltime imprisonment;
  - the majority of home detainees complete the sentence; and
  - the majority of home detainees do not reoffend within two years of release.<sup>32</sup>

### Audit Conclusions

- 3.9 In his review of the implementation of the home detention program by Corrective Services NSW, the Auditor-General found that:
- most offenders on the program complete it;
  - the majority of offenders who complete home detention do not reoffend within two years of release; and
  - home detention is cost-effective when compared to fulltime imprisonment, although the low uptake of the home detention program has reduced its relative cost-effectiveness.<sup>33</sup>
- 3.10 In his examination of the availability of home detention, the Auditor-General found that home detention is not offered across the state, despite the fact that in 1997 – when the program commenced – there was an intention to roll out home detention state-wide. The Auditor-General also noted that four reviews of the program over the past decade have recommended that it be expanded.<sup>34</sup>
- 3.11 However, the Auditor-General acknowledged that Corrective Services NSW plans to expand home detention to CCG offices at Grafton, Bathurst and Dubbo.<sup>35</sup>
- 3.12 The Auditor-General found that access to home detention also depends upon the willingness of judges and magistrates to take up the program in their courts.

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<sup>31</sup> As above, p. 2.

<sup>32</sup> As above, p. 2.

<sup>33</sup> As above, p. 2.

<sup>34</sup> As above, p. 3., p. 19.

<sup>35</sup> As above, p. 19.

The Auditor-General noted that not all Local Courts in NSW with access to home detention make home detention referrals.<sup>36</sup>

- 3.13 In his examination of the administration of home detention by Corrective Services NSW, the Auditor-General found that despite the fact that there are guidelines for assessing offenders, suitability assessment practices vary between CCG offices, making the approach to offender assessments inconsistent.<sup>37</sup>
- 3.14 The Auditor-General also found that the screening process for home detention has become more rigorous over time, leading to a situation where more offenders are found unsuitable.<sup>38</sup>
- 3.15 In relation to supervision of offenders, the Auditor-General found that there are minimum standards for the number of face to face visits each offender must receive. However, he also found that minimum standards were not always met, although there have been some recent improvements.<sup>39</sup>
- 3.16 The Auditor-General also found that supervision and observation of offenders when outside their homes is inconsistent. Moreover, the Auditor-General noted that there are no minimum standards for field visits, which increases the risk that offenders who are not complying with the conditions of home detention may go undetected.<sup>40</sup>
- 3.17 In relation to drug testing offenders, the Auditor-General found that the frequency of drug testing varied and was generally low.<sup>41</sup>
- 3.18 In relation to management of breaches, the Auditor-General found that Home Detention policy sets out guidelines for CCG officers in responding to breaches of home detention conditions. While acknowledging that their ability to manage minor breaches gives them the flexibility to manage offenders, the Auditor-General noted the CCG officers' statements that there were differences between CCG offices in how they respond to breaches.<sup>42</sup>
- 3.19 While the Auditor-General noted that serious breaches or continuing less serious breaches must be reported to the State Parole Authority (SPA), he did not find any formal procedure to review decisions once serious and continued breaches are reported to the SPA.<sup>43</sup>
- 3.20 In his examination of the costs of home detention in NSW, the Auditor-General found that home detention is cost effective compared to full-time imprisonment, although the low uptake of the home detention program has reduced its relative cost-effectiveness.<sup>44</sup>

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<sup>36</sup> As above, p. 20.

<sup>37</sup> As above, pp. 20-21.

<sup>38</sup> As above, p. 20.

<sup>39</sup> As above, p. 22.

<sup>40</sup> As above, p. 23.

<sup>41</sup> As above, p. 23.

<sup>42</sup> As above, p. 24.

<sup>43</sup> As above, p. 25.

<sup>44</sup> As above, p. 26.

- 3.21 The Auditor-General noted that the majority of offenders complete their sentence.<sup>45</sup> For instance, the Auditor-General stated that in 2008-09 about 80 per cent of home detention sentences were completed.<sup>46</sup>
- 3.22 Furthermore, the Auditor-General noted that the majority of offenders who complete home detention do not reoffend within two years of release and that research shows that rehabilitation targeted at problems that underlie offending behaviour reduces reoffending.<sup>47</sup>
- 3.23 While noting that the majority of offenders who complete home detention do not reoffend within two years of release, the Auditor-General noted that reoffending is a major cost to the justice system and that this is also true for those completing home detention sentences.<sup>48</sup> The Auditor-General cited a recent report by the NSW Bureau of Crime Statistics and Research in which it was estimated that a ten per cent reduction in the overall re-imprisonment rate would reduce the prison population by more than 800 inmates, saving \$28 million per year.<sup>49</sup>
- 3.24 In further evaluating the home detention program, the Auditor-General noted that compared to other jurisdictions, NSW appears to be performing well, but that the potential impact of the home detention program is affected by the low number of offenders on the program.<sup>50</sup>
- 3.25 Corrective Services NSW provided initial comments on the Auditor-General's report on 25 August 2010 without specifically accepting or rejecting each recommendation, but outlined action already being taken in relation to each of the Auditor-General's recommendations.<sup>51</sup>

### Auditor-General's Recommendations

- 3.26 The Auditor-General made eleven recommendations across two key areas for Corrective Services NSW to improve access to and to enhance the administration of home detention in the state.

Recommendations	
1.	Corrective Services NSW should improve access to home detention by:
	a) making home detention available across NSW by July 2011; and
	b) promoting the program and its availability with all NSW courts by December 2010.

<sup>45</sup> As above, p. 26.

<sup>46</sup> As above, p. 26.

<sup>47</sup> As above, p. 26.

<sup>48</sup> As above, p. 27.

<sup>49</sup> As above, p. 27.

<sup>50</sup> As above, p. 27.

<sup>51</sup> As above, p. 5.

2.	Corrective Services NSW should improve the administration of home detention by:
	a) exploring with the Department of Justice and Attorney General ways to streamline referral of offenders for assessment by January 2011;
	b) reviewing reasons for offenders being assessed as unsuitable to identify and if possible remove common barriers by July 2011;
	c) establishing minimum standards in line with offender risk rating by December 2010 for: <ul style="list-style-type: none"> <li>• field visits</li> <li>• drug and/or alcohol testing;</li> </ul>
	d) monitoring and ensuring compliance with minimum standards by December 2010;
	e) reviewing learnings from assessments, breaches, and revocations to improve consistency in the delivery of home detention by July 2011;
	f) undertaking regular quality assurance reviews of offender management by December 2010;
	g) reviewing learnings from home detention sentence completions to improve participation and completion rates by December 2010;
	h) including in all offender case plans by December 2010, rehabilitation, program and activity objectives and assist offenders to meet them; and
	i) reviewing compliance with case plan objectives in monthly CCG office meetings by December 2010.

### The Committee's examination

3.27 As part of its follow-up of the Auditor-General's Performance Audits, the Committee wrote to Corrective Services NSW on 28 February 2012, inviting the agency to provide a submission detailing action taken in response to the Performance Audit. Corrective Services NSW responded on 13 April 2012. The submission was forwarded to the Auditor-General for comment, and he in turn responded on 9 May 2012. On 28 May 2012, the Committee wrote to Corrective Services NSW seeking a response to additional questions from the Committee. The response from Corrective Services NSW was received on 10 July 2012.

3.28 In its submission, Corrective Services NSW responded to each of the Auditor-General's recommendations, stating it accepts all eleven recommendations made by the Auditor-General.

- 3.29 **Recommendation 1 a)**, to make home detention available across NSW by July 2011, has been implemented. Namely, from availability in three locations (metropolitan Sydney, Newcastle, and Wollongong areas), home detention was expanded to seven other areas (Bathurst, Grafton, Wagga Wagga, Dubbo, Goulburn, Tamworth and Broken Hill).<sup>52</sup>
- 3.30 The Auditor-General noted that the increased availability has not led to greater uptake of this sentencing option.<sup>53</sup> Corrective Services NSW explained that the reasons why increased availability has not led to greater uptake of this sentencing option may include:
- eligibility criteria, geographical and monitoring issues,
  - the introduction of the Intensive Correction Order (ICO), and
  - the difference between Periodic Detention Orders (PDO) and ICOs in terms of referral processes.<sup>54</sup>
- Corrective Services NSW also emphasised that – given that access to home detention also depends upon the willingness of judges and magistrates to take up the program in their court – the courts are better placed to comment on this discrepancy between availability and uptake.<sup>55</sup>
- 3.31 **Recommendation 1 b)**, to promote the program and its availability with all NSW courts by December 2010, was accepted and implemented. In their submission, Corrective Services NSW explained that Senior Compliance Monitoring Officers (SCMOs) have been actively promoting the program in all areas through attendance at court users meetings and with magistrates. The agency also stated that this promotion will be ongoing, through liaison with courts by the Home Detention Coordinator or the Court Liaison Officer.<sup>56</sup>
- 3.32 **Recommendation 2 a)**, to explore ways to streamline referral of offenders for assessment by January 2011, was accepted and implemented. In 2010, the position of Home Detention Coordinator (HDC) was created. As a result, a central point of contact for the courts for sending and receiving all Home Detention Assessments (HDAs), completed HDAs, and Home Detention Orders and parole orders, was established.<sup>57</sup> While the position has not significantly reduced the time taken to complete assessments, Corrective Services NSW stated that 'the position has provided a central point of contact for courts to enable the dissemination of requests to the relevant team within two days of receipt by the Community Compliance Monitoring Group'.<sup>58</sup>

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<sup>52</sup> Submission 6, Corrective Services NSW, p. 2.

<sup>53</sup> Submission 9, Auditor-General, p. 4.

<sup>54</sup> Mr Ron Woodham, Commissioner, Corrective Services NSW, Correspondence to the Committee, 10 July 2012, p. 1.

<sup>55</sup> As above, p. 1.

<sup>56</sup> Submission 6, Corrective Services NSW, p. 2.

<sup>57</sup> As above, p. 2.

<sup>58</sup> Mr Ron Woodham, Commissioner, Corrective Services NSW, Correspondence to the Committee, 10 July 2012, p. 3.

- 3.33 **Recommendation 2 b)**, to review reasons for offenders being assessed as unsuitable to identify and if possible remove common barriers by July 2011, was accepted and implemented. In their submission, Corrective Services NSW stated that 'regular reviews have identified that since October 2011 on average, 10-12 per cent of referrals from courts are ineligible for Home Detention Orders (HDO)'.<sup>59</sup> Moreover, the agency stated that of the eligible requests, 'it has been identified that since October 2011 the number of offenders assessed as suitable has been steadily increasing between 50 and 78 per cent per month'.<sup>60</sup>
- 3.34 **Recommendation 2 c)**, to establish minimum standards in line with offender risk rating by December 2010 for field visits and drug and/or alcohol testing, has been accepted and completed. Corrective Services NSW stated that minimum standards have been reviewed in line with offender risk rating.<sup>61</sup>
- 3.35 **Recommendation 2 d)**, to monitor and ensure compliance with minimum standards by December 2010, was accepted. Yet, while stating that every effort is made to comply with the home detention minimum standards, Corrective Services NSW explained that because of the high offender population supervised by CCMG, it had to prioritise offender case management. As a result, minimum standards are not always met for all home detainees.<sup>62</sup>
- 3.36 **Recommendation 2 e)**, to review learnings from assessments, breaches, and revocations to improve consistency in the delivery of home detention by July 2011, was accepted. In order to implement this recommendation, Corrective Services' Home Detention Coordinator (HDC) reviewed all Home Detention Assessments (HDAs) and breach reports since June 2010. Moreover, the agency stated that 'officers are complying with case management principles to ensure that if a breach report is necessary, it is supported by evidence regarding non-compliance'.<sup>63</sup> The results of this, the agency stated, included more consistent assessment submissions regarding suitability for home detention and more consistent adjournment requests.<sup>64</sup>
- 3.37 **Recommendation 2 f)**, to undertake regular quality assurance reviews of offender management by December 2010, was accepted. Corrective Services NSW advised that Senior Compliance Monitoring Officers and senior management conduct quality assurance reviews on a monthly basis.<sup>65</sup>
- 3.38 **Recommendation 2 g)**, to review learnings from home detention sentence completions to improve participation and completion rates by December 2010, was accepted. Corrective Services NSW explained that it undertakes ongoing reviews to monitor completion rates and breach statistics of home detainees. These statistics are then used to assist SCMOs to focus case management

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<sup>59</sup> Submission 6, Corrective Services NSW, p. 3.

<sup>60</sup> As above, p. 3.

<sup>61</sup> As above, p. 3.

<sup>62</sup> Mr Ron Woodham, Commissioner, Corrective Services NSW, Correspondence to the Committee, 10 July 2012, p. 3.

<sup>63</sup> Submission 6, Corrective Services NSW, p. 3.

<sup>64</sup> As above, p. 3.

<sup>65</sup> Mr Ron Woodham, Commissioner, Corrective Services NSW, Correspondence to the Committee, 10 July 2012, p. 3.

strategies on offenders most in need of support. Furthermore, the agency emphasised that the completion rate for home detainees remains high at above 90 per cent, indicating the success of case management appropriate for low to medium risk offenders.<sup>66</sup>

- 3.39 **Recommendation 2 h)**, to include in all offender case plans, rehabilitation, program and activity objectives and assist offenders to meet them, was accepted. Corrective Services NSW said that offenders are initially assessed to determine their suitability for the Home Detention program and if assessed as suitable are then – using the Level of Service Inventory-Revised assessment tool – assessed to determine their risk of reoffending. In cases where an underlying issue has been identified, offenders are referred to relevant programs.<sup>67</sup>
- 3.40 **Recommendation 2 i)**, to review compliance with case plan objectives in monthly Community Compliance Group office meetings, was accepted. In their submission, Corrective Services NSW advised that in addition to monthly meetings which are held to address any issues of concern and devise strategies, these issues are also discussed with the HDC to obtain consensus regarding appropriate action.<sup>68</sup>
- 3.41 In addition to examining the issues addressed by the audit, following media reports about alleged unreliability of monitoring anklets such as those worn by home detainees, the Committee wrote to Corrective Services NSW to follow up on this aspect.<sup>69</sup> Corrective Services NSW responded on 25 July and stated that:
- testing procedures are in place to ensure that all straps and batteries on each individual device are in working order;
  - anklets are tested prior to being fitted;
  - Corrective Services NSW has processes in place to address technical problems with anklets worn by home detainees if these occur; and
  - situations where technical problems with anklets occur, and affect the monitoring of home detainees, are treated as priority events.<sup>70</sup>
- 3.42 Corrective Services also advised that no review on the effectiveness of monitoring anklets worn by home detainees has been conducted to date.<sup>71</sup>

## Committee Comment

- 3.43 The Committee is pleased to note that Corrective Services NSW accepted all eleven of the Auditor-General's recommendations.

<sup>66</sup> Submission 6, Corrective Services NSW, p. 5.

<sup>67</sup> Mr Ron Woodham, Commissioner, Corrective Services NSW, Correspondence to the Committee, 10 July 2012, p. 4.

<sup>68</sup> Submission 6, Corrective Services NSW, p. 5.

<sup>69</sup> Sydney Morning Herald, 'Anklets used to track sex offender 'unreliable'', 2 June 2012.

<sup>70</sup> Mr Ron Woodham, Commissioner, Corrective Services NSW, Correspondence to the Committee, 25 July 2012, pp. 1-4.

<sup>71</sup> Mr Ron Woodham, Commissioner, Corrective Services NSW, Correspondence to the Committee, 25 July pp. 1-4.

- 3.44 The Committee commends the progress Corrective Services NSW has made in implementing all of the Auditor-General's recommendations.
- 3.45 The Committee looks forward to the increased utilisation of home detention as a sentencing option by the courts.

#### RECOMMENDATION 1

**The Committee recommends that Corrective Services NSW undertakes a review of the effectiveness of monitoring anklets worn by home detainees.**

## Chapter Four – Sick Leave

### Introduction

- 4.1 In 2006, the NSW Government stated that its aim was to reduce average public sector leave for full-time employees by one day, per person, a year by 2008-09, which – it was estimated – would save around \$45 million.<sup>72</sup>

### The Performance Audit

- 4.2 The Auditor-General assessed whether:
- the NSW public sector met the Government's 2008-2009 target; and
  - public sector agencies reduced sick leave.<sup>73</sup>

### Audit Conclusions

- 4.3 In his review of public sector performance against sick leave targets, the Auditor-General found that the NSW public sector did not meet the Government's target, even though sick leave was reduced by 1.84 hours per person per year between 2004-05 and 2008-09, being just over a quarter of a day.<sup>74</sup> The Auditor-General also found that sick leave decreased in almost 40 per cent of NSW public sector agencies, which make up over two-thirds of the workforce, between 2004-05 and 2008-09, marginally reducing the public sector's overall sick leave rate.<sup>75</sup> The latest results, however, do not show any improvement as average public sector sick leave for 2009-10 remained steady at around 8.1 days per person per year.<sup>76</sup>
- 4.4 The Auditor-General also found that in the NSW public sector:
- sick leave taken increases with age and length of service;
  - the more employees get paid the less sick leave they take;
  - coastal employees take more sick leave than those in the country; and
  - there can be a spike in sick leave before or after weekends and public holidays.<sup>77</sup>
- 4.5 The Auditor-General found that the Department of Premier and Cabinet (DPC) has guidelines in place to assist agencies to manage sick leave. Although the guidelines, which are based on the *Crown Employees (Public Service Conditions*

<sup>72</sup> NSW Auditor-General, 'Performance Audit: Sick Leave', December 2010, p. 2.

<sup>73</sup> As above, p. 2.

<sup>74</sup> As above, p. 2.

<sup>75</sup> As above, p. 6., p. 11.

<sup>76</sup> As above, p. 2.

<sup>77</sup> As above, p. 6., p. 9.

*of Employment) Award 2009*, do not set an overall sick leave target, the Auditor-General found that they advise agencies to set targets and benchmarks to reflect their workplace.<sup>78</sup>

- 4.6 The Auditor-General's examination of whether sick leave results are monitored centrally showed that the Director-General of the DPC monitors sick leave for the NSW public sector on an annual basis, but that there is no routine analysis of sick leave patterns by categories such as age, salary, location or long-term trends.<sup>79</sup> The Auditor-General noted the DPC's plan to revise its workforce profile analysis and reporting in light of the new *Government Information (Public Access) Act 2009* and expressed support for this, encouraging the DPC to include sick leave analysis in future reports.<sup>80</sup>
- 4.7 In his examination of the question of whether agencies are advised of their performance in relation to sick leave, the Auditor-General found that the DPC sends each agency an annual report on their workforce profile which includes their sick leave results. However, the Auditor-General concluded that this is not sufficient to trigger change in agencies that perform poorly. The Auditor-General also noted that there is no publicly available information on the sick leave rate for the NSW public sector. He felt that the lack of this important accountability mechanism limits the public's ability to judge the Government's achievements in this respect.<sup>81</sup>
- 4.8 The Auditor-General's examination of public sector agencies' initiatives in managing sick leave showed mixed outcomes. Firstly, the Auditor-General found that agencies had a range of strategies in place to manage sick leave, but that their success varied. Secondly, he found that all 12 agencies assessed had adequate data to monitor sick leave rates. However, four agencies advised that poor corporate service systems limited analysis.<sup>82</sup>
- 4.9 The NSW Public Service Commission provided initial comments on the Auditor-General's report on 30 November 2010, stating its support for all the recommendations made by the Auditor-General.<sup>83</sup>

### Auditor-General's Recommendations

- 4.10 The Auditor-General made five recommendations across three key areas to ensure that sick leave in the NSW public sector is better managed:

<b>Recommendations</b>	
1	We recommend that by September 2011, the Department of Premier and Cabinet help public sector agencies manage

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<sup>78</sup> As above, p. 9.  
<sup>79</sup> As above, p. 10.  
<sup>80</sup> As above, p. 10.  
<sup>81</sup> As above, p. 10.  
<sup>82</sup> As above, p. 12., p. 18.  
<sup>83</sup> As above, p. 4.

	sick leave by sharing best practice examples of:
	a) agency strategies to reduce sick leave such as return to work interviews, welfare checks, and case managing staff with psychological issues;
	b) agency analysis of sick leave trends and patterns such as sick leave by weekday to help identify cases of excessive sick leave; and
	c) monitoring sick leave with other human resource indicators including staff engagement to find out what motivates staff to go to work.
2.	We recommend that by February 2011, the Department of Premier and Cabinet provide agencies with the sick leave rates of all agencies in the NSW public sector so they can compare their performance.
3.	We recommend that by February 2011, the Department of Premier and Cabinet publish the average annual sick leave rate for the NSW public sector on its website to advise people of the public sector's performance.

## The Committee's examination

- 4.11 As part of its follow-up of the Auditor-General's Performance Audits, the Committee wrote to the DPC on 28 February 2012, inviting it to provide a submission in response to the Performance Audit. In response to this invitation, the NSW Public Service Commission provided a submission on 23 April 2012 and outlined that it now has the responsibility for leading the strategic development and management of the NSW public sector workforce, which includes the management of sick leave.<sup>84</sup> The submission was forwarded to the Auditor-General for comment, and he in turn responded on 16 May 2012. On 28 May 2012, the Committee wrote to the NSW Public Service Commission seeking a response to additional questions from the Committee. The response from the NSW Public Service Commission was received on 11 July 2012.
- 4.12 In its submission, the NSW Public Service Commission stated that it accepts the Auditor-General's recommendations.
- 4.13 **Recommendation 1**, to help public sector agencies manage sick leave by sharing best practice examples of agency strategies to reduce sick leave such as return to work interviews, welfare checks, and case managing staff with psychological issues; agency analysis of sick leave trends and patterns such as sick leave by weekday to help identify cases of excessive sick leave; and monitoring sick leave with other human resource indicators including staff engagement to find out what motivates staff to go to work, was accepted.

<sup>84</sup>

Submission 8, NSW Public Service Commission, p. 1.

- 4.14 In its submission, the NSW Public Service Commission explained that an interagency working group – convened to share best practice in relation to effective sick leave management – met on 31 October 2011.<sup>85</sup> The meeting was attended by representatives from a cross-section of 13 NSW government agencies. Following presentations and discussions at the meeting, detailed meeting notes outlining better practice, case studies and an indication of where additional research and work was required were provided to the participants.<sup>86</sup>
- 4.15 The Commission also highlighted that it intends to continue to promote best-practice in relation to effective sick leave management through 'interagency workshops, and the development of a booklet/online resources of case studies and better practice principles, but that further details are not available at this stage'.<sup>87</sup>
- 4.16 **Recommendation 2**, to provide agencies with the sick leave rates of all agencies in the NSW public sector so they can compare their performance, was accepted. In its submission, the Commission said that in February 2011, it provided each cluster head with 'a table comparing sick leave rates per fulltime equivalent (FTE) from 2008/09 and 2009/10 across the then 12 clusters'.<sup>88</sup> In addition, the Commission stated that it also provided a breakdown of sick leave rates per full-time equivalent (FTE) by agency within their cluster to each cluster head.<sup>89</sup>
- 4.17 In their correspondence to the Committee, the Commission indicated that the sick leave average per FTE is included in the annual NSW Public Sector Workforce Snapshot and Workforce Profile reports, allowing the cluster heads to compare these.<sup>90</sup> The Commission added that 'a new technology platform is being introduced this year by the Public Service Commission which will include an interactive reporting platform'.<sup>91</sup> It is expected that this new technology platform will enable agencies to more easily compare their sick leave rates.
- 4.18 **Recommendation 3**, to publish the average annual sick leave rate for the NSW public sector on its website to advise people of the public sector's performance, was accepted. The Commission explained that in February 2011, 'a revision was made to the NSW Public Sector Workforce 2010 Snapshot to include the average number of sick leave hours taken per FTE'.<sup>92</sup> In its correspondence to the Committee, the Commission stated that this practice will continue as it is intended that the annual NSW Public Sector Workforce Snapshot will include the average number of sick leave hours taken per FTE. The Commission highlighted that this information was included in the most recent annual NSW

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<sup>85</sup> Submission 8, NSW Public Service Commission, p. 2.

<sup>86</sup> Mr Graeme Head, Commissioner, NSW Public Service Commission, Correspondence to the Committee, 11 July, 2012, p. 2.

<sup>87</sup> As above, p. 2.

<sup>88</sup> Submission 8, NSW Public Service Commission, p. 2.

<sup>89</sup> As above, p. 2.

<sup>90</sup> Mr Graeme Head, Commissioner, NSW Public Service Commission, Correspondence to the Committee, 11 July, 2012, p. 2.

<sup>91</sup> As above, p. 2.

<sup>92</sup> Submission 8, NSW Public Service Commission, p. 2.

Public Sector Workforce Snapshot (2011) and is available on the Public Service Commission's website.<sup>93</sup>

## Committee Comment

- 4.19 The Committee is pleased that the NSW Public Service Commission accepted all recommendations made by the Auditor-General and acknowledges the progress the Commission has made in implementing the Auditor-General's recommendations.
- 4.20 The Committee looks forward to seeing further progress on the development of interagency workshops and of booklet/online resources of case studies and best practice principles in managing sick leave across the NSW public sector.
- 4.21 The Committee looks forward to the introduction of the new technology platform, which will include an interactive reporting platform. The Committee expects that this new platform will provide a forum to regularly provide agencies with information about comparable sick leave rates so that they can better compare their performance.

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<sup>93</sup> Mr Graeme Head, Commissioner, NSW Public Service Commission, Correspondence to the Committee, 11 July, 2012, p. 2. (The NSW Public Sector Workforce Snapshot 2011 can be accessed via the following link: [http://www.psc.nsw.gov.au/common\\_res/pscwww/biz\\_pdfs/NSW\\_Public\\_Sector\\_Workforce\\_2011\\_Snap\\_shot.pdf](http://www.psc.nsw.gov.au/common_res/pscwww/biz_pdfs/NSW_Public_Sector_Workforce_2011_Snap_shot.pdf) )

# Chapter Five – Electronic Information Security

## Introduction

- 5.1 In order to deliver more cost-effective and efficient services to the public, the public sector uses internet technologies which require the government to collect and store sensitive and private data electronically.<sup>94</sup>
- 5.2 Improvements in efficiency and effectiveness associated with digital technologies in the delivery of services to the public are also linked to potentially serious risks such as identity theft. For instance, the US Federal Trade Commission estimates that around 10 million Americans have their identities stolen each year.<sup>95</sup>
- 5.3 The severity of risks associated with the collection and storage of private data makes the development and implementation of robust electronic information security measures imperative.<sup>96</sup>
- 5.4 The NSW Government's current policy *Security of Electronic Information* acknowledges its obligation to safeguard its large information holdings and to provide assurance that it is doing so.<sup>97</sup> In his report, released in October 2010, the Auditor-General noted that under that policy, 'agencies were to establish and maintain an Information Security Management System (ISMS) that complies with the international standards and covers all electronic information'.<sup>98</sup> According to policy, the Government Chief Information Office (GCIO) is to survey agencies each year and report to Cabinet.<sup>99</sup>

## The Performance Audit

- 5.5 The Auditor-General assessed the extent to which the Government can provide assurance that it is safeguarding its holdings of sensitive personal information.<sup>100</sup>

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<sup>94</sup> NSW Auditor-General, 'Performance Audit: Electronic Information Security', October 2010, p. 8.

<sup>95</sup> As above, p. 9.

<sup>96</sup> As above, pp. 8-12.

<sup>97</sup> As above, p. 2.

<sup>98</sup> As above, p. 2.

<sup>99</sup> As above, p. 2.

<sup>100</sup> As above, p. 2.

## Audit Conclusions

- 5.6 The Auditor-General concluded that the Government is not able to provide assurance that it is safeguarding its holdings of sensitive personal information since its policy has not been implemented properly. He noted that this is likely to remain the case until there are 'clear, mandatory, minimum standards that agencies sign up to, and scrutiny of performance against these standards is strengthened'.<sup>101</sup>
- 5.7 The Auditor-General found that the Government has a policy in relation to electronic information security. The Government's current policy objective is outlined in the Ministerial Memorandum 2007-04 *Security of Electronic Information*, which was issued by the then Premier in 2007 and highlights that 'the Government has a duty to safeguard its large information holdings and must provide credible assurance that it is doing so'.<sup>102</sup>
- 5.8 Furthermore, the Auditor-General noted that the policy outlines the means through which the objective was to be achieved, that is through the establishment and maintenance of international standards. Yet, despite the fact that the government has been issuing edicts to agencies about electronic information security for a decade, there has been little impact, because the policy has not been implemented properly.<sup>103</sup> The Auditor-General found that the reason why the policy was not implemented is because it did not establish any deadlines, effective monitoring or consequences for agencies if they did not comply.<sup>104</sup>
- 5.9 While acknowledging that the Government's electronic information security policy could be implemented more consistently, the Department stated that the onus of responsibility for implementation rests with agencies and departments as 'there is no central regulation of compliance with the policy'.<sup>105</sup> This, the Auditor-General found, is one of the key issues and must be changed fundamentally in order to improve electronic information security in NSW.<sup>106</sup>
- 5.10 The Auditor-General found the development of a new Government ICT strategy and the review of ICT governance arrangements across the NSW Government is underway. He emphasised the importance of taking electronic information security into account when implementing the NSW reforms. In particular, the Auditor-General found the establishment and implementation of minimum standards and mandatory requirements, such as those in the UK and Victoria, were very important for NSW.<sup>107</sup>
- 5.11 In its initial comments on the Auditor-General's report, the Department of Premier and Cabinet (DPC) stated that it found the report's findings 'both a relevant and timely contribution to the current initiatives and actions already

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<sup>101</sup> As above, p. 2.  
<sup>102</sup> As above, p. 12.  
<sup>103</sup> As above, pp. 12-13.  
<sup>104</sup> As above, p. 14.  
<sup>105</sup> As above, p. 14.  
<sup>106</sup> As above, p. 14.  
<sup>107</sup> As above, p. 16.

being undertaken involving the review and revision of the Government's Information and Communication Technology (ICT) policy and forward strategy'.<sup>108</sup> DPC stated that it supports the Auditor-General's recommendations, 'subject to the outcome of the reforms currently under consideration by Government'.<sup>109</sup>

## Auditor-General's Recommendations

- 5.12 In order to enhance electronic information security across the NSW public sector, the Auditor-General made recommendations for the Government to establish minimum standards and mandatory requirements, strengthen accountability, and enhance scrutiny. More specifically, the Auditor-General made 12 recommendations to ensure best possible electronic information security is in place in NSW:

<b>Recommendations</b>	
1.	The Department of Premier and Cabinet should, on behalf of the NSW Government, publish a new Information and Communication Technology Strategy and establish new electronic information security governance arrangements by June 2011, and ensure that:
1.1.	minimum standards, policies, and rules are established with which all agencies must comply, while recognising that individual agencies need to assess their own risk and may need to put in place a higher level of protection;
1.2.	information security is built into all public sector ICT systems from design through to implementation and disposal;
1.3.	all ICT products, services and assets adopted by agencies include common standards for information security and, in time, a common and secure infrastructure is used across the public sector;
1.4.	the processes by which agencies understand and manage their information risks are standardised;
1.5.	there is one central mechanism for establishing information assurance priorities, sharing risk information across agencies, and sharing best practice;
1.6.	existing lines of accountability through Directors General and Chief Executive Officers are used to improve information handling, with them signing off on the adequacy of security systems, and information security to be included in their

<sup>108</sup> As above, p. 5.

<sup>109</sup> As above, p. 5.

	performance agreements;
1.7.	mandatory training is provided to those with access to sensitive personal information or involved in managing it;
1.8.	action is taken to make clear that any failure to apply protective measures is a serious matter which could lead to disciplinary action;
1.9.	professional certification is required for staff or contractors working in roles with technical information security content;
1.10.	visibility of performance is increased, with agencies publishing material in their annual reports, and report to Parliament annually on information security across government;
1.11	there is truly independent monitoring of compliance, through audit and technical testing to a defined standard; and
1.12.	agencies report breaches or near misses to an independent organisation responsible for capturing incidents, ensuring investigations are conducted, and lessons are learned.

### The Committee's examination

- 5.13 As part of its follow-up of the Auditor-General's Performance Audits, the Committee wrote to the DPC on 28 February 2012, inviting it to provide a submission, detailing action taken in response to the Performance Audit. DPC provided a submission on 10 May 2012. The submission was forwarded to the Auditor-General for comment and he in turn responded on 16 May 2012.
- 5.14 On 18 June 2012 the Committee held a public hearing to seek further information from the DPC about its response to the audit. Mr Phil Minns, Deputy Director General and Ms Emily Morgan, A/Chief Information Officer gave evidence for the DPC. Mr Malcolm Freame, Acting Chief Information Officer and Mr William Murphy, Executive Director, ICT Policy gave evidence for the Department of Finance and Services (DFS).
- 5.15 At the end of the hearing, the Committee requested a status update from DPC/DFS on the development and implementation of the electronic information security policy to be provided to the Committee by mid July 2012. DPC responded in writing on 16 July 2012.
- 5.16 In its submission to the Committee, the DPC advised that it accepted seven recommendations without qualifications; it accepted four recommendations with qualifications; and rejected one recommendation.
- 5.17 **Recommendation 1.1.**, to ensure that minimum standards, policies, and rules are established with which all agencies must comply, while recognising that individual agencies need to assess their own risk and may need to put in place a

higher level of protection, was accepted. The DPC advised that the ICT Strategy is due for release in the second quarter of 2012.<sup>110</sup> Since then, the ICT Strategy was released in May 2012.

- 5.18 **Recommendation 1.2.**, to ensure information security is built into all public sector ICT systems from design through to implementation and disposal as part of the new ICT strategy and new electronic information security governance arrangements, was accepted. The DPC stated that a 'draft minimum set of control measures will be considered by the ICT Board in the third quarter of 2012'.<sup>111</sup>
- 5.19 **Recommendation 1.3.**, to ensure all ICT products, services and assets adopted by agencies include common standards for information security and, in time, a common and secure infrastructure is used across the public sector, was accepted. The DPC said that the Information Security Working Group will recommend a minimum set of controls for adoption by the whole sector.<sup>112</sup>
- 5.20 In response to the Chair's question at the public hearing, whether there can be assurance that the ICT Strategy will address issues such as 'minimum standards, issues of accountability, and responsibility in terms of who will follow up and monitor those issues, and ultimately transparency in reporting on those issues', Mr Murphy explained:
- ... the policy is still in draft form and it is still being worked through by a working group that has been tasked to develop that.<sup>113</sup>
- 5.21 In correspondence to the Committee following the hearing, DPC advised that the ICT Working Group completed the draft electronic information security policy on 30 June 2012 and that it would be considered by the ICT Leadership Group on 13 July 2012. Subject to that consideration it will be provided to the ICT Board on 27 July 2012. If agreed by the Government, all agencies will be required to report progress towards the implementation of the policy and will be expected to have fully implemented it by 1 December 2013.<sup>114</sup>
- 5.22 **Recommendation 1.4.**, to ensure that the processes by which Departments understand and manage their information risks are standardised, was accepted. The DPC advised that this recommendation has been implemented as the NSW Treasury TPP 09-05 Internal Audit and Risk Management Policy supports greater standardisation of information security risk management practices.<sup>115</sup>
- 5.23 **Recommendation 1.5.**, to ensure that there is one central mechanism for establishing information assurance priorities, sharing risk information across agencies, and sharing best practice, was accepted. In its submission, the DPC

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<sup>110</sup> Submission 10, Department of Premier and Cabinet, p. 2.

<sup>111</sup> As above, p. 2.

<sup>112</sup> As above, p. 2.

<sup>113</sup> Mr Malcolm Freame, Acting Chief Information Officer, Department of Finance and Services, Evidence, 18 June 2012, p. 5.

<sup>114</sup> Mr Phil Minns, Deputy Director General, Department of Premier and Cabinet, Correspondence to the Committee, 16 July 2012, p. 1.

<sup>115</sup> Submission 10, Department of Premier and Cabinet, p. 2.

advised that the Information Security Group is reviewing the proposed approach.<sup>116</sup>

5.24 **Recommendation 1.6.**, to ensure existing lines of accountability through Directors General and Chief Executive Officers are used to improve information handling, with them signing off on the adequacy of security systems, and for information security to be included in their performance agreements, was accepted. The DPC advised that the implementation of this recommendation is on track as Chief Executive Officers will sign a statement of attestation in their agency annual reports.<sup>117</sup>

5.25 **Recommendation 1.7.**, to ensure that mandatory training is provided to those with access to sensitive personal information or involved in managing it, was accepted with qualifications. DPC advised that the implementation of this recommendation is on track as agencies are expected to ensure the Code of Conduct addresses this issue.<sup>118</sup>

5.26 **Recommendation 1.8.**, to ensure action is taken to make clear that any failure to apply protective measures is a serious matter which could lead to disciplinary action, was rejected. DPC advised that the call for dismissal to be an option may be disproportionate to the conduct and difficult to implement from an evidentiary perspective.<sup>119</sup>

5.27 In his response to questions regarding recommendation 1.8 and DPC's response to it at the public hearing, Mr Murphy from DFS stated:

In terms of disciplinary matters for breaches of that policy, I am not an expert on the Public Sector Employment and Management Act but my understanding is that breaches of codes of conduct and other sort of requirements on public servants, which would cascade down from these policies, depending on the nature of the breaches and, I guess, the circumstances in each case, ultimately the disciplinary arrangements that can apply to those under the public sector codes of conduct framework can extend to very significant consequences, including dismissal.<sup>120</sup>

5.28 Commenting on Mr Murphy's evidence and the effectiveness of implementation of the current electronic information security policy, the Auditor-General stated at the public hearing that:

We do not know if everyone follows it. I would be more interested once the secondary, more specific requirements of IT security are implemented to make sure that it is specific, not over the top like some of the international standards but is specific and that someone is monitoring that departments are doing it and there are direct consequences for that.<sup>121</sup>

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<sup>116</sup> Submission 10, Department of Premier and Cabinet, p. 3.

<sup>117</sup> As above, p. 3.

<sup>118</sup> As above, p. 3.

<sup>119</sup> As above, p. 3.

<sup>120</sup> Mr William Murphy, Executive Director, ICT Policy, Department of Finance and Services, Evidence, 18 June 2012, p. 4.

<sup>121</sup> Mr Peter Achterstraat, NSW Auditor-General, Evidence, 18 June 2012, p. 4.

- 5.29 **Recommendation 1.9.**, to ensure professional certification is required for staff or contractors working in roles with technical information security content, was accepted with qualifications. DPC advised that the ICT Skills and Capability Development Working group will investigate whether the currently existing qualifications and certifications already sufficiently support this recommendation.<sup>122</sup>
- 5.30 Commenting on the progress DPC has made in implementing recommendation 1.9., at the public hearing Mr Freame stated:
- ... We are aware that a number of agencies have already implemented awareness programs above and beyond the actual publishing of policies themselves, to ensure people are aware of their obligations under information and security requirements.<sup>123</sup>
- 5.31 **Recommendation 1.10.**, to ensure visibility of performance is increased, with agencies publishing material in their annual reports, and report to Parliament annually on information security across government, was accepted. The DPC advised that the implementation of this is on track and that it will be in place from financial year 2013/2014.<sup>124</sup>
- 5.32 **Recommendation 1.11.**, to ensure that there is truly independent monitoring of compliance, through audit and technical testing to a defined standard, was accepted for those agencies that require certification. The DPC advised that the implementation of this recommendation is on track.<sup>125</sup>
- 5.33 **Recommendation 1.12.**, to ensure agencies report breaches or near misses to an independent organisation responsible for capturing incidents, ensuring investigations are conducted, and lessons are learned, was accepted with qualifications. In its submission, DPC advised that the Information Security Working Group is reviewing this recommendation.<sup>126</sup>
- 5.34 At the public hearing, the issues raised in recommendation 1.12 were followed up:
- Mr DALEY:** In your submission you said that the information security working group is reviewing the proposal to report breaches or near misses to a coordinated body so that investigations are conducted and lessons are learned. Can you tell me where is the coordinated body going to reside and how is it progressing?
- Mr MURPHY:** At the moment there is no formal mechanism for central reporting or policing or sharing of information about those sorts of incidents. One of the things the working group is talking about is establishing an ongoing expert group in Government that would bring together expertise from across the Government to a central point which would be, I guess, hosted you could say by the Department of Finance and Services, but that would provide a vehicle for sharing information about

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<sup>122</sup> Submission 10, Department of Premier and Cabinet, p. 4.

<sup>123</sup> Mr William Murphy, Executive Director, ICT Policy, Department of Finance and Services, Evidence, 18 June 2012, p. 5.

<sup>124</sup> Submission 10, Department of Premier and Cabinet, p. 4.

<sup>125</sup> As above, p. 4.

<sup>126</sup> As above, p. 4.

those events when they occur and what responses have been made and that will hopefully leverage the expertise across Government that does exist in a more effective way so that we share some of that skill set more than we are now.

**Mr DALEY:** Have you got a timeframe?

**Mr MURPHY:** Again, that will be one of the elements of the policy framework which is taken to the ICT board soon.<sup>127</sup>

## Committee Comment

- 5.35 The Committee acknowledges the efforts of the Department of Premier and Cabinet in developing and releasing the NSW Government ICT Strategy 2012.
- 5.36 The Committee is pleased to note that the Department of Premier and Cabinet is working on the re-examination of electronic information security arrangements in NSW Government. However, it is not evident to the Committee exactly what has been developed since the Auditor-General's report, based on the evidence provided. Therefore the Committee was not in a position to assess whether or how the revised policy will ensure greater electronic information security. The Committee believes that DPC's electronic information security governance arrangements must outline reasonable minimum standards, policies, and rules with which all NSW public sector agencies must comply.
- 5.37 While pleased with the revision of the electronic information security policy, the Committee notes that the current issues with electronic information security in NSW are not a result of lack of policy, but rather a lack of consistent implementation of policy. Therefore, the Committee believes that a new policy will not be a solution if it does not incorporate some strengthened monitoring and accountability mechanisms that are consistently applied.
- 5.38 The Committee is disappointed that DPC rejected the Auditor-General's recommendation to ensure action is taken to make clear that any failure to apply protective measures is a serious matter which could lead to disciplinary action, on the basis that 'the call for dismissal to be an option may be disproportionate to the conduct and difficult to implement from an evidentiary perspective'. The Committee does not believe that 'a warning of action' automatically implies dismissal. Rather, it could simply provide grounds for cautioning of an employee in a proportionate way.

## RECOMMENDATION 2

**The Committee recommends that the Department of Premier and Cabinet ensure that the new electronic information security governance arrangements**

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<sup>127</sup> Mr William Murphy, Executive Director, ICT Policy, Department of Finance and Services, and Mr Michael Daley MP, Public Accounts Committee, Evidence, 18 June 2012, p. 8.

**outline reasonable minimum standards, policies, and rules to be established with which all NSW public sector agencies must comply.**

### RECOMMENDATION 3

**The Committee recommends that the Department of Premier and Cabinet's new electronic information security policy provides for a centralised mechanism to scrutinise implementation of electronic security measures by NSW Government agencies and ensure that the policy is implemented in an effective and consistent manner.**

# Chapter Six – Helicopter Emergency Medical Service Contract

## Introduction

- 6.1 Helicopters have been part of the Ambulance Service of NSW's fleet since the 1970s. They provide quick access to medical services (pre-hospital) or transport between hospitals (interhospital), most commonly from a rural or regional hospital to a major one. These are collectively referred to as 'Helicopter Emergency Medical Services' (HEMS), and do not include rescue services. By 2006 there were nine helicopters operating across NSW, flying approximately 4,000 missions each year.<sup>128</sup>
- 6.2 In 2006 the Ambulance Service of NSW commenced a tender process to provide helicopters in the Greater Sydney region, which covers the Sydney, Wollongong and Orange areas. The tender was won by Lloyd Off-Shore Helicopters Pty Ltd, trading as CHC Helicopters. CHC Helicopters was already providing services in Wollongong and Canberra. Services in the rest of the Sydney region had previously been provided by CareFlight, while Child Flight provided specialised emergency transport for neonatal and paediatric patients.
- 6.3 The award of the contract to provide helicopter medical services in the Greater Sydney region to CHC Helicopters in 2007 generated considerable public comment, with claims that the tender process was unfair, that the service was more expensive and that performance had deteriorated.<sup>129</sup>

## The Performance Audit

The aim of the Auditor-General's Performance Audit was to assess whether the helicopter emergency medical services contract process and outcomes for Greater Sydney were satisfactory.<sup>130</sup>

## Audit Conclusions

- 6.4 The Auditor-General found that the contract process was satisfactory: it had a clear purpose and objectives, and was conducted in a way that was consistent with relevant policies, standards and guidelines. The contract process was approved by the State Contracts Control Board and endorsed by Cabinet. The

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<sup>128</sup> See: 'Helicopter Emergency Medical Service Contract', Media release, The Audit Office of New South Wales, 22 September 2010.

<sup>129</sup> As above.

<sup>130</sup> New South Wales Auditor-General's Report, 'Performance Audit: Helicopter Emergency Medical Services Contract', September 2010, p. 2.

Auditor-General did identify minor probity concerns with the contract process, but believed that these would not have changed the tender decision.<sup>131</sup>

6.5 The Auditor-General found that the outcomes of the process were also satisfactory. The availability of helicopters was meeting contract requirements, with the exception of the Wollongong helicopter. The service provided by CHC Helicopters had also improved the NSW Ambulance Services's capacity to transport patients to the right hospital at the right time, with reductions in the time taken between a 000 call and tasking of helicopters. The number of pre-hospital patients being transported to the hospital best suited to their needs had increased, and the new helicopters are also able to transport a broader range of patients, such as those requiring specialised equipment.<sup>132</sup>

6.6 While noting the positive outcomes from the tender process, the Auditor-General also found that the cost of the new contract is three times higher than it was previously.<sup>133</sup>

6.7 In its initial response to the Auditor-General's report, Professor Debora Picone, Director-General, NSW Health, wrote that:

The tender process was designed to market test the most cost effective way to achieve the required results. While the cost of providing the service is higher than previous arrangements, the service that is being provided is also higher, allowing the Ambulance Service to undertake a greater range of missions at enhanced levels of safety.<sup>134</sup>

### Auditor-General's Recommendations

6.8 The Auditor-General made eight recommendations, with varying timeframes.

	Timeframe	Recommendation
1.	Urgent	Ambulance should ensure, in consultation with the helicopter operators, that the improvements recommended by the safety audit of the Orange Hospital helicopter landing site are followed.
2.	Within six months	Ambulance should provide more comprehensive information on its helicopter emergency medical services to the public.
3.		Ambulance should explore whether any financial compensation should be sought for lost capability resulting from the installation of the inlet barrier filters.

<sup>131</sup> As above, pp. 2-3.

<sup>132</sup> As above, p. 3.

<sup>133</sup> As above, p. 2.

<sup>134</sup> As above, p. 5.

4.	Within 12 months	Ambulance should ensure that AmbFlight is implemented and fully functional.
5.		Ambulance should advise the public on the permanent location for its Sydney helicopter emergency medical services base and its impact on operations once this decision is made.
6.	Within two years	Because of the apparent change in demand across NSW, Ambulance should review the effectiveness of all its helicopter emergency medical arrangements before extending the CHC contract or executing any new regional contracts.
7.	Ongoing	Ambulance should ensure through its contract management that helicopter operators gain appropriate authorisation for any changes that may influence the service delivery capacity of the helicopters.
8.		Ambulance should continue to ensure that CHC appraise them of any possible changes in corporate direction that could affect their role in Australia.

### The Committee's examination

- 6.9 As part of its follow-up of the Auditor-General's Performance Audits, the Committee wrote to the NSW Department of Health and the Ambulance Service of NSW on 28 February 2012, inviting them to provide a submission detailing action taken in response to the Performance Audit. The two agencies provided a joint submission on 11 April 2012. This submission was forwarded to the Auditor-General for comment, and he in turn responded on 9 May 2012.
- 6.10 The Committee conducted a public hearing on 18 June 2012, to seek further information from the NSW Department of Health and the Ambulance Service of NSW about their response to the audit. Commissioner Mike Willis, Acting Chief Executive and Dr Ron Manning, Director, Statewide Services, gave evidence for the Ambulance Service of NSW, while Ms Karen Crawshaw gave evidence for the NSW Department of Health.
- 6.11 In relation to **Recommendation 1**, that the Ambulance Service of NSW ensure that improvements recommended by the safety audit of the Orange helicopter landing site are followed, Ambulance Service of NSW stated that all of the recommendations have been actioned. A new helipad site at Bloomfield was commissioned in March 2011.<sup>135</sup>
- 6.12 In his report, the Auditor-General noted that a safety audit of the landing site at Orange Base Hospital conducted in March 2010 had identified significant safety

<sup>135</sup> Submission 4, NSW Department of Health, p. 4.

issues and recommended that helicopters be diverted to the Orange helicopter base until these issues were addressed.<sup>136</sup>

6.13 At the public hearing, Dr Manning explained that, following this safety audit, helicopters changed their landing site to the Orange helicopter base until the opening of the new site at Bloomfield hospital in March 2011.<sup>137</sup> The helipad site in Orange was decommissioned at the end of 2010. Dr Manning noted that the new Bloomfield site had also been the subject of a safety audit which identified no problems.<sup>138</sup>

6.14 **Recommendation 2**, that the Ambulance Service of NSW should provide more comprehensive information on its helicopter emergency medical services performance to the public, was also accepted. When releasing his report, the Auditor-General commented that 'I believe that a lot of the concern and controversy [about the helicopter contract] could have been allayed if the public was given more information on how the helicopters are performing'.<sup>139</sup>

6.15 In its submission, the Ambulance Service of NSW explained that its ability to report on the performance of helicopter services was limited because it did not have operations software to facilitate reporting.<sup>140</sup> In his report, the Auditor-General had noted that aeromedical services performance was compiled manually.<sup>141</sup> The Ambulance Service of NSW explained in its submission that it is developing and introducing new Operations Centre software.<sup>142</sup>

6.16 The Ambulance Service of NSW also noted in its submission that it publishes information about helicopter activity, availability and emergency response times on its website, as it does for road ambulance services.<sup>143</sup> Information about helicopter performance and availability is published on an annual basis. Asked whether the agency considered more frequent reporting appropriate, Commissioner Mike Willis, Acting Chief Executive, Ambulance Service of NSW, explained that:

Throughout the year, just the seasonal fluctuations in response performance, just taking that as one indicator, would take a lot of explanation and a lot of detail in the sense of providing that. Do we consider it appropriate or better to put data on our web site in public forum more frequently than that? I guess no, we do not.<sup>144</sup>

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<sup>136</sup> New South Wales Auditor-General's Report, 'Performance Audit: Helicopter Emergency Medical Services Contract', September 2010, p. 19.

<sup>137</sup> Dr Ron Manning, Director, Statewide Services, Ambulance Service of NSW, Evidence, 18 June 2012, p. 36.

<sup>138</sup> As above.

<sup>139</sup> See: 'Helicopter Emergency Medical Service Contract', Media release, The Audit Office of New South Wales, 22 September 2010.

<sup>140</sup> Submission 4, NSW Department of Health, p. 4.

<sup>141</sup> New South Wales Auditor-General's Report, 'Performance Audit: Helicopter Emergency Medical Services Contract', September 2010, p. 15.

<sup>142</sup> Submission 4, NSW Department of Health, p. 4.

<sup>143</sup> As above.

<sup>144</sup> Commissioner Mike Willis, Acting Chief Executive, Ambulance Service of NSW, Evidence, 18 June 2012, p. 40.

6.17 **Recommendation 3**, that Ambulance Service of NSW should explore whether any financial compensation should be sought for lost capability resulting from the installation of inlet barrier filters, was accepted. In its submission, Ambulance Service of NSW explained that the operational capabilities of the helicopter in Orange were less than those required in the contract process, due to the fitting of an inlet filter on the engines.<sup>145</sup> Inlet barrier filters are designed to stop particles entering the engines, particularly when an aircraft is operating in sandy conditions.

6.18 In his report, the Auditor-General observed that the performance of this helicopter had been criticised in the media and in Parliament.<sup>146</sup> In its submission, Ambulance Service of NSW explained that it had not been advised of the effect of the filters and once it became aware, it sought advice and established that they were not necessary for safety purposes.<sup>147</sup> The filters were subsequently removed. However, in relation to whether financial compensation should be sought for lost capability, Ambulance Service of NSW explained:

To retrospectively determine whether the reason for the EC 145 [helicopter] to be unable to do a mission was due to the barrier filters alone or the more common combination of aviation factors would require detailed analysis.<sup>148</sup>

6.19 Ambulance Service of NSW further explained that it had examined records to identify missions where a helicopter had been available but the mission was undertaken by a different aircraft, during the period where the filters had been installed. In the case of the Eurocopter (EC) 145 helicopter in Orange, it identified only five such cases. Because the cost difference between the EC 145 and the aircraft actually used was small, Ambulance Service of NSW concluded that it was not cost effective to pursue the matter.<sup>149</sup>

6.20 **Recommendation 4**, that the Ambulance Service of NSW ensure that AmbFlight be implemented and fully functional by 30 September 2011, is related to Recommendation 2 and was accepted. Ambflight is operational software used for aeromedical services. At the public hearing, Dr Manning explained the rationale for introducing this software:

The computer aided dispatch software that is used for road was found fundamentally not to be suitable for air and medical retrieval operations, just by virtue of the different nature of information that is required. The aero medical service went for some time with essentially a home grown version of software whilst the computer aided dispatch system was being implemented and now that has moved to AmbFlight, which is essentially taking that old system and putting it into a more robust platform and then integrating that with the ambulance environment.<sup>150</sup>

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<sup>145</sup> Submission 4, NSW Department of Health, p. 5.

<sup>146</sup> New South Wales Auditor-General's Report, 'Performance Audit: Helicopter Emergency Medical Services Contract', p. 19.

<sup>147</sup> Submission 4, NSW Department of Health, p. 5.

<sup>148</sup> As above, p. 5.

<sup>149</sup> As above, pp. 5-6.

<sup>150</sup> Dr Ron Manning, Director, Statewide Services, Ambulance Service of NSW, Evidence, 18 June 2012, p. 35.

- 6.21 Dr Manning explained that AmbFlight is to be implemented in two phases. Phase 1 is complete, while Phase 2 is in development. Dr Manning explained that Phase 2 of the project involves integrating the software with the Ambulance computer-aided dispatch software AmbCAD. This part of the project is due for completion by November 2012.<sup>151</sup>
- 6.22 NSW Health and Ambulance Service of NSW accepted **Recommendation 5**, that Ambulance Service of NSW should advise the public on the permanent location for the Sydney Helicopter Emergency Medical Services base and its impact on operations once this decision is made. In his report, the Auditor-General noted that a previous review recommended a single base for all Sydney helicopters. However, neither of the bases then in use was suitable.<sup>152</sup>
- 6.23 Helicopter services are currently operating out of Bankstown airport. In his report, the Auditor-General expressed the view that this was not the best location for several reasons, including its distance from major hospitals.<sup>153</sup> At the public hearing, Dr Manning explained Ambulance Service of NSW's view:
- The difficulty we have with Bankstown is that it is in controlled air space and that creates difficulties for us in getting clearances and departure times. Also, looking forward, Bankstown is likely to be a busier and busier airport, so we were looking for a site that is more geographically in the centre of Sydney but also outside the control zone and also close to the helicopter lanes, particularly the east-west one that goes up and down the river.<sup>154</sup>
- 6.24 In its submission, Ambulance Service of NSW noted that it completed an Options paper regarding possible locations for a new helicopter base in 2011, and had worked with the Land and Property Authority to identify a preferred location.<sup>155</sup> Ambulance Service of NSW also stated that the identification of a new site had been delayed.<sup>156</sup> At the hearing, Dr Manning said that a preferred site has actually been identified but is not yet confirmed:
- Our preferred site is in fact there. It is out on the Parramatta speedway site, which is outside the control zone and on the helicopter lane, so that is what we are hoping for.<sup>157</sup>
- 6.25 NSW Health and Ambulance Service of NSW did not provide advice as to when a new helicopter base may become operational. However, at the hearing Dr Manning said that 'in terms of indicative dates, the timeframe in the strategic

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<sup>151</sup> As above, p. 35.

<sup>152</sup> New South Wales Auditor-General's Report, 'Performance Audit: Helicopter Emergency Medical Services Contract', September 2010, p. 19.

<sup>153</sup> As above.

<sup>154</sup> Dr Ron Manning, Director, Statewide Services, Ambulance Service of NSW, Evidence, 18 June 2012, p. 39.

<sup>155</sup> Submission 4, NSW Department of Health, p. 4.

<sup>156</sup> As above.

<sup>157</sup> Dr Ron Manning, Director, Statewide Services, Ambulance Service of NSW, Evidence, 18 June 2012, p. 39.

gateway in the business case is 2015'.<sup>158</sup> NSW Health has allowed for the cost of the new base in its forward budget projections.<sup>159</sup>

6.26 **Recommendation 6**, that Ambulance Service of NSW should review the effectiveness of all its helicopter emergency medical arrangements before extending the CHC contract or executing any new regional contracts, was accepted.

6.27 In his report, the Auditor-General noted that the number of missions flown by helicopter emergency medical services had declined, after increasing in 2007-08.<sup>160</sup> This decline occurred across the state, and was not confined to the greater Sydney region.

6.28 At the hearing, Dr Manning explained that the changes in mission numbers was due to a change in the pattern of pre-hospital and inter-hospital missions:

The reason for that is there has been a change in the pattern so that there are now more pre-hospital missions being flown with the view of getting patients to their definitive care faster, but there has been a decrease in inter-hospital transfers and there are three reasons for that. The first is by virtue of getting people to their definitive care in the first go, there is obviously a reduction in the need for secondary transfers. The other is with the generation of the base at Sydney, that has enabled us to be able to do road missions in Sydney with more efficiency, so the helicopter transfer numbers out of the Bankstown base have dropped significantly and been translated into road missions and also NETS. Around this same time NETS got their own road vehicles, so their reliance on helicopters dropped significantly.<sup>161</sup>

6.29 At the hearing, Mr Willis noted that current helicopter service contracts are due for renewal:

All current contracts and service agreements with our current helicopter providers conclude between December 2012 and May 2014, excluding any extension options that may be available at the time ... the Minister of Health has asked that an assessment of the current aero medical rotary wing part of aero medical retrieval services be undertaken and recommendations provided for any changes, looking forward again a decade ahead.<sup>162</sup>

6.30 In its submission, NSW Health noted that the Minister for Health announced a broad review of the Ambulance Service of NSW, including aeromedical services, in June 2011. The Terms of Reference for the review have been developed and a sub-committee appointed to oversee the review of aeromedical services.<sup>163</sup>

6.31 **Recommendation 7**, that Ambulance Service of NSW ensure through its contract management that helicopter operators gain appropriate authorisation for any

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<sup>158</sup> As above.

<sup>159</sup> Submission 4, NSW Department of Health, p. 4.

<sup>160</sup> New South Wales Auditor-General's Report, 'Performance Audit: Helicopter Emergency Medical Services Contract', September 2010, p. 16.

<sup>161</sup> Dr Ron Manning, Director, Statewide Services, Ambulance Service of NSW, Evidence, 18 June 2012, p. 36.

<sup>162</sup> Commissioner Mike Willis, Acting Chief Executive, Ambulance Service of NSW, Evidence, 18 June 2012, p. 31.

<sup>163</sup> Submission 4, NSW Department of Health, p. 5.

changes that may influence the service delivery capacity of helicopters, was accepted. This recommendation also arose from the installation of inlet barrier filters, which affected the performance of EC145 helicopters. In its submission, Ambulance Service of NSW stated that it conducts regular contract meetings with all helicopter service providers and that modifications to aircraft are a standing item on the agenda at these meetings. All modifications to aircraft must be approved by Ambulance Service of NSW and requests for modifications are considered by an independent aviation advisor.<sup>164</sup>

6.32 **Recommendation 8**, that Ambulance Service of NSW should continue to ensure that CHC appraise them of any possible changes in corporate direction that could affect their role in Australia, was also accepted. Concern about this issue appears to have arisen after CHC Helicopters considered selling its Australian interests in 2009.<sup>165</sup>

6.33 In its submission, Ambulance Service of NSW noted that rights and obligations under the helicopter services contract cannot be assigned without the written consent of Ambulance Service of NSW and that it had been liaising with CHC. In March 2010 CHC confirmed its ongoing commitment to providing helicopter services in Australia and subsequently advised that it intended to restructure its Australian operations. This restructure was completed in April 2011 and Ambulance Service of NSW commented favourably on the outcomes.<sup>166</sup>

#### Committee Comment:

6.34 Efficient and effective aeromedical services are essential to the provision of world class medical services in NSW. The Committee is pleased to note that the NSW Department of Health and the Ambulance Service of NSW is conducting a strategic review of aeromedical services in preparation for new helicopter emergency medical services contracts beginning from 2013.

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<sup>164</sup> As above, p. 10.

<sup>165</sup> New South Wales Auditor-General's Report, 'Performance Audit: Helicopter Emergency Medical Services Contract', September 2010, p. 13.

<sup>166</sup> Submission 4, NSW Department of Health, p. 11.

# Chapter Seven – Mental Health Workforce

## Introduction

- 7.1 Mental illness causes significant distress and is responsible for 13 per cent of the disease burden in Australia.<sup>167</sup> It is estimated that in NSW 16.5 per cent of the population has some form of mental illness. NSW Health predominantly deals with the more severe cases (2.5 per cent) in hospital and community settings.<sup>168</sup> NSW Health allocated \$1.171 billion or 8.1 per cent of the State's total health budget to mental health in 2009-10.<sup>169</sup>
- 7.2 NSW Health consists of the Department of Health, which sets policies and budgets and monitors performance, and Area Health Services<sup>170</sup>, which manage mental health services in hospitals and the community.<sup>171</sup> In 2011 NSW Health was renamed the Ministry of Health, but will be referred to as NSW Health in this report.
- 7.3 In 2006 NSW Health announced *A New Direction for Mental Health (New Directions)*, a five year plan committing \$939 million to improve access to mental health. The then Minister described the initiative as 'significant in that for the first time it aims to balance hospital focused care with community care'.<sup>172</sup> The plan promised more hospital beds and more community care and early intervention so that problems are identified and managed before they escalate and require hospitalisation. The plan also promised to provide greater continuity of care and more integrated services for people with mental illness.<sup>173</sup>

## The Performance Audit

- 7.4 The Auditor-General assessed whether NSW Health distributes the mental health frontline clinical workforce effectively.<sup>174</sup>

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<sup>167</sup> New South Wales Auditor-General's Report, 'Performance Audit: Mental Health Workforce', December 2010, p. 2., p.14.

<sup>168</sup> New South Wales Auditor-General's Report, 'Performance Audit: Mental Health Workforce', December 2010, p. 2.

<sup>169</sup> As above, p. 2.

<sup>170</sup> In 2011 Area Health Services became Local Health Districts. The terms are used interchangeably in this report.

<sup>171</sup> New South Wales Auditor-General's Report, 'Performance Audit: Mental Health Workforce', December 2010, p. 2.

<sup>172</sup> As above, p. 2.

<sup>173</sup> As above, p. 2.

<sup>174</sup> As above, p. 2.

## Audit Conclusions

- 7.5 The Auditor-General found that – compared to the mental health workforce in most other Australian states and territories – the NSW workforce is more concentrated in acute hospitals for adult patients, is marginally smaller for its population, and is unevenly spread across the state.<sup>175</sup>
- 7.6 The Auditor-General noted some positive developments, including the fact that NSW Health increased its mental health workforce between 2006 and 2009; it has improved the geographical distribution of clinicians across the state in order to better match need; and increased the number of staff working with younger and older mental health patients.<sup>176</sup>
- 7.7 Nevertheless, the Auditor-General expressed concern in relation to three major issues: data integrity; the fact that community mental health has not met expectations; and the fact NSW Health sometimes diverted money to other programs. These all impact NSW Health's capacity to plan its services and workforce effectively.<sup>177</sup>
- 7.8 The Auditor-General found that NSW Health was not able to advise him of the precise size of the mental health workforce. NSW Health advised that it employed 600 to 1000 extra staff between 2005-06 and 2008-09.<sup>178</sup> The Auditor-General found that the size of the increase in the mental health workforce is unclear because the data on mental health funding and workforce are inconsistent and in places inaccurate. He found that this reduces NSW Health's capacity to plan its services and workforce effectively.<sup>179</sup> The Auditor-General noted that NSW Health plans to address these shortcomings with the implementation of a new financial and human resources information system, which, however, will not be operational before 2012.<sup>180</sup>
- 7.9 The Auditor-General also found that while the Government funded over 500 new community based services staff by 2008-09, the net growth was perhaps half as much, as existing community based services positions either disappeared or were not filled.<sup>181</sup> This is despite the 2006 *A New Direction for Mental Health* plan.<sup>182</sup> By June 2009, NSW Health had filled around 80 per cent of the 544 new community positions funded by *New Directions* and subsequent enhancements. This resulted in a net increase in the range of 200 to 340 community clinicians because, as Area Health Services created new positions, they delayed or refused permission to fill older positions when they became vacant.<sup>183</sup> The audit

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<sup>175</sup> New South Wales Auditor-General's Report, 'Performance Audit: Mental Health Workforce', December 2010, pp. 2-3.

<sup>176</sup> As above, p. 2.

<sup>177</sup> As above, p. 2.

<sup>178</sup> As above, p. 16.

<sup>179</sup> As above, p. 2.

<sup>180</sup> As above, p. 18.

<sup>181</sup> See: 'Mental Health Workforce', Media release, The Audit Office of New South Wales, 16 December 2010.

<sup>182</sup> New South Wales Auditor-General's Report, 'Performance Audit: Mental Health Workforce', December 2010, p. 2.

<sup>183</sup> New South Wales Auditor-General's Report, 'Performance Audit: Mental Health Workforce', December 2010, p. 23.

also concluded that between 100 to 230 older community based positions that pre-dated *New Directions* were lost.<sup>184</sup>

- 7.10 Despite the growth in clinician numbers, the Auditor-General found that the workforce is not adequate to meet demand. While NSW Health has achieved its medium term goal to meet 80 per cent of demand on a state wide basis for acute services for adults and children, it has not done so for older persons. The Auditor-General also pointed out that there are still local gaps.<sup>185</sup>
- 7.11 Given that community based services have not grown as intended, the Auditor-General noted people may not receive help early in an illness, are not able to access alternatives to hospital and may get limited support after leaving hospital.<sup>186</sup> In fact, the Auditor-General found that NSW Health is not meeting its target of contacting 70 per cent of patients within a week of discharge as community clinicians record making contact with only 52 per cent. As a result, the Auditor-General found that a third of children and two-thirds of older people stay in acute beds for longer periods because there are no adequate alternatives in the community or non-acute hospitals to meet their specialised needs.<sup>187</sup>
- 7.12 The Auditor-General found that the mental health budget was not adequately protected from pressure from Area Health Services to support other areas of health.<sup>188</sup> The Auditor-General found that although NSW Health states that 'the Mental Health Program Budget is a protected budget source and should not be used as a basis for assisting with broader budgetary pressures', the roll out of *New Directions* has occurred at a time of budgetary constraints, making it difficult to follow through with this policy.<sup>189</sup> The Auditor-General also found that external reviewers commissioned by the Department in 2009 advised that mental health funding was at risk and estimated that around \$20 million per annum was diverted from mental health to other areas of Health.<sup>190</sup> The Auditor-General estimated that \$20 million could employ at least another 150 clinicians.<sup>191</sup>
- 7.13 The Auditor-General was also concerned that:
- Area Health Services charge overheads – a mechanism that lacks transparency and puts mental health funding at risk;
  - NSW Health usually takes three to six months to fill mental health positions, exacerbating staff shortages; and

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<sup>184</sup> As above, p. 23.

<sup>185</sup> As above, p. 29.

<sup>186</sup> As above, p. 2.

<sup>187</sup> As above, p. 26.

<sup>188</sup> As above, p. 23.

<sup>189</sup> As above, p. 24.

<sup>190</sup> As above, p. 24.

<sup>191</sup> See: 'Mental Health Workforce', Media release, The Audit Office of New South Wales, 16 December 2010.

- NSW Health lacks an integrated workforce plan at the State level to ensure the distribution of clinicians matches need.<sup>192</sup>

7.14 Professor Debora Picone AM, then Director General of NSW Health, provided initial comments to the Auditor-General's report on 6 December 2010. She welcomed the Auditor-General's report recommendations as 'these are consistent with, and reinforce, actions already being undertaken by the NSW Department of Health to further improve mental health services for the people of NSW'.<sup>193</sup>

7.15 However, Professor Picone noted that 'despite best efforts shown to understand a complex system, the Auditor-General's report has not adequately represented the complexity of the mental health system or given a balanced representation of the significant progress that has been achieved since 2006'.<sup>194</sup> Some of these include: improving inpatient response; better tailoring of emergency responses and service models to meet the differing requirements of metropolitan and rural areas; and the increasing mental health workforce.<sup>195</sup>

7.16 Furthermore, she stated that recruitment difficulties are due to a shortfall in Commonwealth-funded training places as well as particular difficulties in attracting skilled staff in rural and remote parts of the state.<sup>196</sup> Professor Picone also argued that 'there has been considerable parallel investment in both inpatient and community services'.<sup>197</sup> She concluded by stating that 'the findings of the Performance Audit are consistent with the Service Profile and Performance Review of Mental Health and Drug and Alcohol Programs' and that NSW Health welcomed the opportunity to continue NSW Health's 'focus on improvement of mental health services for the people of NSW'.<sup>198</sup>

### Auditor-General's Recommendations

7.17 The Auditor-General made nine recommendations for improvement across three key areas:

Recommendations	
1.	By January 2012, NSW Health should ensure all local health services:
1.1.	improve data quality to provide reliable information on the size and profile of the current workforce for internal planning and external reporting;
1.2.	determine what mental health services and workforce are

<sup>192</sup> New South Wales Auditor-General's Report, 'Performance Audit: Mental Health Workforce', December 2010, p. 25.

<sup>193</sup> Response from NSW Health, New South Wales Auditor-General's Report, 'Performance Audit: Mental Health Workforce', December 2010, p. 5.

<sup>194</sup> As above, p. 5.

<sup>195</sup> As above, p. 25.

<sup>196</sup> As above, p. 6.

<sup>197</sup> As above, p. 7.

<sup>198</sup> As above, p. 7.

	being and will continue to be funded by local health services; and
1.3.	have consistently developed mental health workforce plans, which cover existing (including pre-2006) and planned services and are integrated into a state wide plan.
2.	By July 2011 NSW Health should ensure:
2.1.	Mental Health Directors have direct reporting lines to their Chief Executives including authority over the budgets and delegation to recruit mental health workers (subject to CEO approval);
2.2.	overhead charges made against mental health programs by other health services are appropriate and transparent;
2.3.	local health networks report against agreed benchmarks for the distribution of their workforce between community and hospital based service; and
2.4.	the average recruitment time to fill a position is reduced to nine weeks.
3.	By January 2012 NSW Health should ensure all local health services:
3.1.	expedite action to integrate mental health services and build partnerships with non-government organisations, private clinicians, other service providers, consumers and carers; and
3.2.	inform a patient's private doctor of the ongoing care plan when the patient is discharged from a NSW Health facility, subject to privacy legislation.

### The Committee's examination

- 7.18 As part of its follow-up of the Auditor-General's Performance Audits, the Committee wrote to NSW Health on 28 February 2012, inviting it to provide a submission detailing action taken in response to the Performance Audit. In response to this invitation, NSW Health provided a submission on 16 April 2012. The response was forwarded to the Auditor-General for comment, and he in turn responded on 9 May 2012.
- 7.19 On 18 June 2012 the Committee held a public hearing to seek further information from NSW Health about its response to the audit. Dr Rohan Hammett, Deputy Director General, Strategy & Resources, Mr David McGrath, Director Mental Health and Drug and Alcohol Office, and Ms Robyn Burley, Director, Workforce Planning & Development gave evidence for the NSW Ministry of Health.
- 7.20 In its submission, NSW Health advised that it supports six recommendations without qualifications and supports three recommendations with qualifications.

- 7.21 **Recommendation 1.1.**, that NSW Health ensure that all local health services improve data quality to provide reliable information on the size and profile of the current workforce for internal planning and external reporting, was supported by NSW Health. In its submission NSW Health said that the implementation of the State-wide Management Reporting Tool (SMRT), which is intended to improve data quality in relation to human resources and financial management across the NSW Health system, is progressing.<sup>199</sup> NSW Health stated that the financial side of the project is advanced while the development of the human resources side of the project is on-going and is anticipated to be implemented by 2013.<sup>200</sup>
- 7.22 At the public hearing on 18 June 2012 Dr Hammett explained:
- ... NSW Health has been progressively rolling out an information system known as the State-wide Management Reporting Tool, which is designed to improve the level of data that we can gather about our workforce and about our financial and control systems... We are expecting a roll out in about December 2012. At this time we are not in a position to provide specific and accurate information about the size and nature of the mental health workforce but there are plans on track for the implementation of that system that will assist.<sup>201</sup>
- 7.23 At the public hearing the Chair requested that NSW Health provide an update by the end of July 2012, stating how much progress has been made and milestones outlining how the 31 December 2012 deadline for the implementation of the entire SMRT project will be achieved. On 31 July 2012, NSW Health provided the response as requested by the Chair, confirming that the December 2012 deadline will be met.<sup>202</sup>
- 7.24 **Recommendation 1.2.**, that NSW Health ensure that all local health services determine what mental health services and workforce are being, and will continue to be, funded by local health services, was supported by NSW Health. In its submission, NSW Health stated that while the State-wide Management Reporting Tool (SMRT) – which is intended to improve data quality in relation to human resources and financial management across the NSW Health system – is being finalised and rolled out, the Department will continue to use the Mental Health Establishments National Minimum Data Set, which is reported annually.<sup>203</sup>
- 7.25 **Recommendation 1.3.**, that NSW Health ensure that all local health services have consistently developed mental health workforce plans which cover existing (including pre-2006) and planned services and are integrated into a state wide plan, was supported by NSW Health. In its submission, NSW Health said that following the endorsement of the Mental Health Workforce Strategy and Plan by the Australian Health Ministers' Conference in September 2011, an implementation committee is being established and includes a NSW Health

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<sup>199</sup> Submission 5, NSW Health, p. 1.

<sup>200</sup> As above, p. 1.

<sup>201</sup> Dr Rohan Hammett, Deputy Director General, Strategy & Resources, NSW Ministry of Health, Evidence, 18 June 2012, p. 11.

<sup>202</sup> Dr Mary Foley, Director-General, NSW Health, Correspondence to the Committee, 31 July 2012, pp. 1-3.

<sup>203</sup> Submission 5, NSW Health, p. 2.

representative.<sup>204</sup> Furthermore, NSW Health advised that it has developed a Planning Toolkit to facilitate development of Workforce Plans.<sup>205</sup>

7.26 **Recommendation 2.1.**, that NSW Health ensure that Mental Health Directors have direct reporting lines to their Chief Executives including authority over the budgets and delegation to recruit mental health workers (subject to CEO approval), was supported with qualifications. In its submission NSW Health explained that action is being taken to ensure that mental health funds are used as intended. On 28 February 2011 the then Deputy Premier and Minister for Health issued a Ministerial Direction to all Local Health Networks [Districts] stating:

In administering the delivery of mental health services, the Chief Executive is to ensure the following: i. all budget and other resources allocated to the LHN for the purposes of the delivery and management of mental health services are not to be used for any other purpose: .... the Director of Mental Health Services has direct access and reporting lines to senior management (the Chief Executive or a tier 2 position) on mental health policy matters.<sup>206</sup>

7.27 NSW Health also stated that recruitment to Mental Health Director positions has been a priority. The majority of Mental Health Directors are now in place and the remainder of positions are in the process of being finalised.<sup>207</sup>

7.28 At the public hearing on 18 June 2012 the Committee inquired whether there are any sanctions or penalties planned for local health districts which do not use the mental health funds as intended. Dr Hammett explained:

...certainly there are provisions for the Ministry to take back funds from local health districts for various reasons... We are articulating in the budgets for local health districts this year how much they are expected to spend on mental health. The senior managers of local health districts are obviously subject to the management control of the Director General and there is a clear expectation that those resources will be utilised in the mental health arena.<sup>208</sup>

7.29 **Recommendation 2.2.**, that NSW Health ensure that overhead charges made against mental health programs by other health services are appropriate and transparent, was supported by NSW Health. In its submission, NSW Health explained that SMRT is being rolled out and further efforts are underway to associate the mental health program budgets at a Local Health District level through SMRT including tracking overhead charges. Advice for allocating overhead costs to programs is issued each year as part of the preparation of annual financial statements. NSW Health also stated that further reconfiguration of the NSW Health accounting systems to enable the discrete reporting of Mental Health services will be considered once the NSW Mental Health Commission is established and the financial reporting needs of the Commission are identified.<sup>209</sup>

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<sup>204</sup> Submission 5, NSW Health, p. 3.

<sup>205</sup> As above, p. 4.

<sup>206</sup> As above, pp. 5-6.

<sup>207</sup> As above, pp. 6-7.

<sup>208</sup> Dr Rohan Hammett, Deputy Director General, Strategy & Resources, NSW Ministry of Health, Evidence, 18 June 2012, p. 17.

<sup>209</sup> Submission 5, NSW Health, p. 8.

7.30 At the public hearing on 18 June 2012 the Committee inquired about the proportion of mental health funding being spent on overhead charges by Local Health Districts and whether NSW Health recommends a cap on overhead charges. Dr Hammett explained:

We do. In fact since 2007/08 financial year there has been advice to the former area health services and now the local health districts that any overheads charged by local health districts should not exceed 7.5 per cent of the total program expenditure and that is the upper limit of the cap on overheads, so overhead charges for mental health programs should be equal to or less than a 7.5 per cent overhead charge.<sup>210</sup>

7.31 **Recommendation 2.3.**, that NSW Health ensure local health districts report against agreed benchmarks for the distribution of their workforce between community and hospital based service was supported with qualifications. In its submission, NSW stated that through its 'Milestones' Reporting process, the Mental Health and Drug and Alcohol Office (MHDAO) requests reports from each Local Health District (LHD) on community Full-Time Equivalent (FTE) establishments, current vacancies and actions to address those vacancies. Reports are submitted on a quarterly basis and addressed by LHD Chief Executives at their performance meetings with the Ministry established under the Health system's Performance Management Framework.<sup>211</sup>

7.32 At the public hearing on 18 June 2012 the Committee noted the Auditor-General's findings in relation to mental health workforce shortages being greatest in community and residential settings. The Committee asked NSW Health about the extent to which the gap has closed. Dr Hammett explained:

... Again, because our historic data systems have not been ideally suited for capturing data related to workforce in the mental health sector and also because you are now talking in community settings where in fact much of the health activity and responsibility in community settings rests not with the New South Wales but with the Commonwealth Government, we are subject to constraints associated with information available out there in the community, so I cannot give you data showing that the numbers of community and residential mental health care workers has increased...

There is likely to be changing levels of information about this in line with the national health reform arrangements. You may or may not be aware that from 1 July 2013 mental health funding under the National Health Reform Agreement moves to an activity based funding model which will make much more transparent where the dollars are actually being spent in mental health, including being able to capture how much is being spent in the community setting, so we will gather more information both through the SMRT IT tool and through the national funding reform arrangements, but I have not got numbers showing currently that that gap is being closed.<sup>212</sup>

7.33 **Recommendation 2.4.**, that NSW Health ensure that the average recruitment time to fill a position is reduced to nine weeks, was supported with

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<sup>210</sup> Dr Rohan Hammett, Deputy Director General, Strategy & Resources, NSW Ministry of Health, Evidence, 18 June 2012, p. 15.

<sup>211</sup> Submission 5, NSW Health, p. 9.

<sup>212</sup> Dr Rohan Hammett, Deputy Director General, Strategy & Resources, NSW Ministry of Health, Evidence, 18 June 2012, p. 14.

qualifications. In its submission, NSW Health stated that while nine weeks for average recruitment time is desirable, it is not always achievable. However, NSW Health stated that the e-recruitment system currently being implemented throughout NSW Health will assist with monitoring timelines for recruitment. NSW Health also emphasised that it has established a state-wide recruitment committee to provide governance to the e-recruitment system and streamline the operations and recruitment policy.<sup>213</sup>

7.34 **Recommendation 3.1**, that NSW Health ensure all local health services expedite action to integrate mental health services and build partnerships with non-government organisations, private clinicians, other service providers, and consumers and carers, was supported by NSW Health. In its submission, NSW Health stated that programs continue to be implemented and developed to support the integration of Mental Health Services, partnerships with NGOs and the private sector. For instance, NSW Health indicated that the Housing and Accommodation Support Initiative<sup>214</sup> is a model example of what can be achieved when agencies such as Health, Housing, and the NGO sector work together.<sup>215</sup>

7.35 At the public hearing on 18 June 2012 the Committee inquired whether NSW Health has a strategy in place for building partnerships with stakeholders, consumers and carers. Dr Hammett explained:

The short answer is yes we do and have been actively engaged with the private sector, with primary health care providers, with the non Government sector and indeed with multiple other departments across Government. We can point to a number of examples that we have referred to in our response. There is the HASI program, which is very much a partnership between the Ministry and other government departments and NGO providers, to make sure we have effective community support for people with mental illness. There are a number of examples we have alluded to in our response and the answer is yes.<sup>216</sup>

7.36 **Recommendation 3.2**, that NSW Health ensure all local health services inform a patient's private doctor of the ongoing care plan when the patient is discharged from a NSW Health facility subject to privacy legislation, was supported by NSW Health. In its submission, NSW Health stated:

As a requirement under the current policy for Discharge Planning from Adult Mental Health Units and under the revised policy now in development, it is a standard practice to provide the patient's GP and/or other health professionals involved in ongoing care with the Transfer/Discharge documentation, care plan and other relevant information.<sup>217</sup>

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<sup>213</sup> Submission 5, NSW Health, p. 10.

<sup>214</sup> The Housing and Accommodation Support Initiative (HASI) is a partnership program funded by the New South Wales (NSW) Government that ensures stable housing linked to specialist support for people with mental illness. ( Details about the program can be accessed via the following link: [http://www.health.nsw.gov.au/pubs/2007/hasi\\_intiative.html](http://www.health.nsw.gov.au/pubs/2007/hasi_intiative.html) ).

<sup>215</sup> As above, p. 11.

<sup>216</sup> Dr Rohan Hammett, Deputy Director General, Strategy & Resources, NSW Ministry of Health, Evidence, 18 June 2012, p. 14.

<sup>217</sup> Submission 5, NSW Health, p. 15.

- 7.37 Furthermore, in their update NSW Health stated that 'standard clinical practise as restated in the Discharge Policy and the new draft policy is an ongoing requirement for NSW mental health services. The new policy is expected to be released around mid 2012'.<sup>218</sup>
- 7.38 On 13 September 2012, NSW Health verbally confirmed that it has drafted the new Discharge Policy, which the Mental Health Program Council has approved. NSW Health expects that the policy will be released very soon as it is currently being considered by the relevant Minister.
- 7.39 During the public hearing, the Committee sought an update on the implementation of the new policy. Dr Hammett explained:
- There is a policy requirement that discharge summaries for all patients are provided to their referring practitioner. I am a gastroenterologist by training and I know that for my patients unfortunately that does not always happen, nor does it always happen for mental health patients, despite the fact that it is the Ministry's policy that that should occur. We are updating our policy but, again, I would point to the new arrangements under activity based funding as an incentive to improve that practice so hospitals and local health districts are now having to capture data on exactly what conditions patients have and they have to do it for funding reasons, so there is a very strong lever that we can now apply to enhance the compliance of local health districts with the Ministry's policy. It has long been our policy that patients should have a discharge summary. The fact that there will now be dollars resting on the accuracy of that discharge information will provide a significant incentive for that to occur.<sup>219</sup>

### Committee Comment

- 7.40 The Committee is pleased that NSW Health has made progress in implementing all nine recommendations made by the Auditor-General.
- 7.41 The Committee looks forward to the implementation of the Human Resources side of the State-wide Management Reporting Tool project by the end of 2012 as it will enhance NSW Health's capacity to plan its services and workforce more effectively, and therefore deliver better quality and more effective services to its clients.
- 7.42 The Committee notes that on 28 February 2011 the then Deputy Premier and Minister for Health issued a Ministerial Direction to all Local Health Networks [Districts] to ensure that mental health funds be used as intended. However, the Committee does not have any evidence to state whether and to what extent the Ministerial Direction for the Local Health Districts to use mental health funds as intended has been implemented.

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<sup>218</sup> Submission 5, NSW Health, p. 15.

<sup>219</sup> Dr Rohan Hammett, Deputy Director General, Strategy & Resources, NSW Ministry of Health, Evidence, 18 June 2012, p. 19.

RECOMMENDATION 4

**The Committee recommends that NSW Health review the effectiveness of the State-wide Management Reporting Tool in providing reliable information on the size and profile of the mental health workforce by the end of 2013.**

RECOMMENDATION 5

**The Committee recommends that, by the end of 2013, NSW Health conduct a review of Local Health Districts to assess whether and to what extent the Ministerial Direction for the Local Health Districts to use mental health funds as intended has been implemented.**

## Chapter Eight – Coal Mining Royalties

### Introduction

- 8.1 The price mining companies pay to Government via leases to extract and sell minerals from Crown land and private land – which is owned by the people of NSW – is known as 'royalty'.<sup>220</sup>
- 8.2 Mining royalties are a major source of revenue for NSW – for instance, in 2008-09 the Government received \$1.28 billion in mining royalties equalling about 2.6 per cent of the total revenue collected by the Government that year.<sup>221</sup> Furthermore, the revenue from mining royalties has increased significantly in recent times (by 123 per cent between 2007-08 and 2008-09) due to a rise in coal export prices and increases in royalty rates.<sup>222</sup>
- 8.3 NSW Department of Industry and Investment's (DII) Royalty and Statistics Branch is responsible for administering the collection of mining royalties.<sup>223</sup> Since the audit, the name of the Department of Industry and Investment has changed to Department of Trade and Investment, Regional Infrastructure and Services (DTIRIS). The names will be used interchangeably in this report. For the purpose of simplicity, the report will mostly refer to 'the Department'.

### The Performance Audit

- 8.4 The Auditor-General assessed how well the Department ensures mining lease holders pay royalties they owe to the State on time. In particular, the Auditor-General examined whether the Department:
- has complete, accurate, and up-to-date information on leases;
  - has clear rules for calculating and collecting royalties;
  - identifies late and inaccurate royalty returns;
  - undertakes comprehensive quality audits to validate royalty payments; and
  - acts on late and inaccurate returns.

### Audit Conclusions

- 8.5 The Auditor-General found that DII cannot assure the people of NSW that all royalties owed are being paid in full because it does not have sufficiently robust systems and processes to identify what is owed and ensure that it is paid.<sup>224</sup> In

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<sup>220</sup> NSW Auditor-General's Report, 'Performance Audit: Coal Mining Royalties', November 2010, p. 2.

<sup>221</sup> As above, p. 2.

<sup>222</sup> As above, p. 2.

<sup>223</sup> As above, p. 2.

<sup>224</sup> As above, p. 2.

fact, the Auditor-General estimated that at least \$8 million more in coal royalties could have been collected between 2004-05 and 2008-09.<sup>225</sup>

- 8.6 More specifically, the Auditor-General found that:
- royalty payments are complex to calculate and guidance on royalty payments calculations is inadequate;
  - the auditing and monitoring processes for royalties are not strong enough; and
  - penalties do not apply to underpayments, even if persistent, as long as some payment is made on time.<sup>226</sup>
- 8.7 In his examination of the question of whether DII has accurate and current information on who should be paying coal mining royalties, the Auditor-General found that DII could not demonstrate that all its information that supports the collection of royalties is accurate and current.<sup>227</sup> The Auditor-General noted that having accurate information on all mining lease holders is important in order to properly administer the collection of royalties. However, while DII advised that it checked the client database's accuracy each year, it could neither provide evidence that this had been done in the past nor of the method it uses. The Auditor-General also stated that DII could not produce records of any data validation reviews, their findings and/or action taken.<sup>228</sup>
- 8.8 The Auditor-General supported DII's electronic data integration project, which would ensure that the information that supports the collection of royalties is updated electronically, and which the DII aims to complete by June 2013.<sup>229</sup>
- 8.9 The Auditor-General's examination of whether DII made it easy for mining companies to determine what they need to pay and when showed that while the rules about timing of payment are clear, the rules about the amount of the payment are not. The Auditor-General also found that DII does not provide comprehensive guidance on the specific rules for coal mining royalties to lease holders.<sup>230</sup> The audit showed that calculations of royalties are based on self-assessments which lease holders lodge on a monthly basis, using one of the three rates that apply to different types of mines. The Auditor-General noted that NSW is the only state in Australia that has three rates applying to different types of mines. As a result, mining lease holders need assistance to apply the appropriate rules to their particular circumstance.
- 8.10 The Auditor-General noted that given the lack of comprehensive guidance and a system to ensure the advice provided by DII staff is accurate and consistent, assistance (which mining lease holders might need) does not seem to be

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<sup>225</sup> NSW Auditor-General's Report, 'Performance Audit: Coal Mining Royalties', November 2010, p. 2.

<sup>226</sup> As above, p. 2.

<sup>227</sup> As above, p. 9.

<sup>228</sup> As above, p. 9.

<sup>229</sup> As above, p. 10.

<sup>230</sup> As above, p. 10.

provided.<sup>231</sup> The Auditor-General acknowledged that DII advised that guidelines for coal mining are being developed and will be published shortly on its website.<sup>232</sup>

- 8.11 The Auditor-General's examination of whether DII ensures that royalty returns arrive in a timely manner and are checked for accuracy and validity showed that while DII identifies late royalty payments and follows up with lease holders, it cannot – from the self-assessed royalty returns – examine whether the royalty being paid is correct.<sup>233</sup> Moreover, the Auditor-General found that the validity of royalty payments rests solely with DII as – unlike in some other jurisdictions – NSW coal mining lease holders do not have to provide supporting evidence or independent verification of the amount paid. DII also relies on a manual royalty return system which requires lease holders to fill out royalty returns manually and lodge them with DII via email, fax or mail, which makes the process inefficient and user-unfriendly.<sup>234</sup>
- 8.12 The Auditor-General noted that DII is implementing a project to provide online access for coal mining lease holders to replace the current manual returns, and that the project should be completed by June 2013.<sup>235</sup>
- 8.13 In his examination of the question of whether DII's audits are done well and whether DII do enough of them, the Auditor-General found that DII does not audit well and that it does not do enough audits.<sup>236</sup> More specifically, the Auditor-General found that:
- DII has not developed and documented audit procedures, that practices vary between auditors, and that there is no effective quality assurance process;
  - audits take too long, do not cover every royalty each year for each client and are not well targeted; and
  - DII is not implementing its policy of auditing all coal mining lease holders at least every two years.
- 8.14 The Auditor-General found that this has led to DII recovering fewer royalties than it could have if it had a more robust system in place. In fact, the Auditor-General estimated that the potential revenue leakage in the five-year period during which \$3.9 million additional royalties were recovered was at least \$8 million.<sup>237</sup>
- 8.15 In his examination of the question of whether DII takes appropriate action where payments are late or incorrect, the Auditor-General found that DII

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<sup>231</sup> NSW Auditor-General's Report, 'Performance Audit: Coal Mining Royalties', November 2010, pp. 10-11.

<sup>232</sup> As above, p. 11.

<sup>233</sup> As above, p. 12.

<sup>234</sup> As above, p. 12.

<sup>235</sup> As above, p. 13.

<sup>236</sup> As above, p. 13.

<sup>237</sup> As above, p. 13.

penalises late payments of royalties but not incorrect payments.<sup>238</sup> The Auditor-General also found that penalties for late payments are not a strong enough deterrent and that there is no escalation of penalties for persistently late payers.<sup>239</sup>

8.16 Mr Barry Buffier, Acting Director, NSW Department of Industry and Investment provided initial comments on the Auditor-General's report. He stated that the Department accepted all the report's recommendations. However, he expressed concern about the tone and the commentary in aspects of the report.<sup>240</sup> Mr Buffier also stated that:

- the Department has provided data to the Audit Office which has not been acknowledged or included in the report, and that some of Auditor-General's statements are incorrect;
- the Auditor-General's calculation of \$8 million of revenue leakage within the auditing program over 5 years is extremely subjective; and
- the transfer of royalty administration to the Office of State Revenue requires careful examination.<sup>241</sup>

8.17 Mr Michael Schur, Secretary, NSW Treasury also provided initial comments on the Auditor-General's report. He welcomed the report as a measure to improve efficiency in the collection of royalties. Mr Schur also stated that NSW Treasury will – as recommended by the Auditor-General – review the merits of transferring the administration of royalties to Office of State Revenue (OSR) by June 2011.<sup>242</sup>

### Auditor-General's Recommendations

8.18 The Auditor-General made 15 recommendations for improvement across six key areas:

<b>Recommendations</b>	
1.	<p>To ensure information that supports the collection of coal mining royalties is accurate and current, DII should:</p> <ul style="list-style-type: none"> <li>• develop data quality assurance standards and procedures;</li> <li>• maintain records of annual data validation reviews; and</li> <li>• implement the electronic data integration project by</li> </ul>

<sup>238</sup> As above, p. 16.

<sup>239</sup> NSW Auditor-General's Report, 'Performance Audit: Coal Mining Royalties', November 2010, p. 16.

<sup>240</sup> As above, p. 5.

<sup>241</sup> As above, p. 5.

<sup>242</sup> As above, p. 6.

	June 2013.
2.	To help mining lease holders comply with the rules, DII should develop comprehensive compliance guidance for coal royalties.
3.	To improve the accuracy of returns and the efficiency of the royalty return system, DII should: <ul style="list-style-type: none"> <li>• require coal mining lease holders to provide supporting evidence with their annual returns;</li> <li>• require coal mining lease holders to undertake an independent limited assurance audit of annual returns; and</li> <li>• implement an online royalty return system by June 2013.</li> </ul>
4.	To ensure a more structured approach and effective audits, DII should: <ul style="list-style-type: none"> <li>• develop a risk-based audit program to better target audit resources;</li> <li>• for each audit undertaken, extend the scope from the current one year's royalties to all years since the previous audit;</li> <li>• develop audit procedures and train staff;</li> <li>• monitor and report on audit progress and findings, and the effectiveness of its compliance activities; and</li> <li>• develop a staff rotation policy to better manage the perception of independence.</li> </ul>
5.	To improve compliance, DII should: <ul style="list-style-type: none"> <li>• penalise underpayments of royalties identified in audits and annual returns exceeding a certain percentage (e.g. two per cent) of royalties owed for the year; and</li> <li>• escalate penalties for consistent late payments of royalties.</li> </ul>
6.	NSW Treasury, in consultation with DII and the Department of Premier and Cabinet, should undertake a detailed review of the merits of transferring the administration of royalties to the Office of State Revenue

	by June 2011.
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## The Committee's examination

- 8.19 As part of its follow-up of the Auditor-General's Performance Audit, the Committee wrote to NSW Treasury on 28 February 2012 and to NSW Department of Trade and Investment on 8 March 2012, inviting them to provide submissions detailing action taken in response to the Performance Audit. In response to this invitation, NSW Treasury provided a submission on 23 April 2012 and NSW Department of Industry and Investment on 1 April 2012. The responses were forwarded to the Auditor-General for comment, and he in turn responded on 9 and 16 May 2012.
- 8.20 Following the receipt of the Auditor-General's comments, the Committee wrote to NSW Treasury to seek further information about its response to the audit. Mr Philip Gaetjens, Secretary, NSW Treasury, responded on 3 July 2012.
- 8.21 On 18 June 2012 the Committee held a public hearing to seek further information from the NSW Department of Trade and Investment about its response to the audit. Mr Mark Paterson, Director-General, gave evidence for the Department of Trade and Investment, Regional Infrastructure and Services. Mr Paterson took some questions on notice and provided the answers on 10 July 2012.
- 8.22 In its submission, NSW Department of Trade and Investment advised that it accepted all of the Auditor-General's recommendations. However, the Department reiterated its concerns about the report's conclusions and the tone of the commentary on aspects which, in the Department's view, 'do not accurately portray how effective or efficient the current royalty system is'.<sup>243</sup>
- 8.23 **Recommendation 1**, that DII ensure information that supports the collection of coal mining royalties is accurate and current by developing data quality assurance standards and procedures; maintaining records of annual data validation reviews; and implementing the electronic data integration project by June 2013, was accepted. In its submission the Department refuted the claim that it could not demonstrate that information on which lease holders should be paying royalties is accurate or current. It stated that mining operations must be approved by the Department before they commence and that all information regarding mining leases is maintained within the Titles Administration System (TAS), which records details for each authority. Each authority is also allocated to a royalty client within the Royalty Administration System.<sup>244</sup>
- 8.24 During the public hearing, the Chair asked if Mr Paterson could indicate what data quality assurance standards and procedures have been developed.

<sup>243</sup> Submission 2, NSW Trade and Investment, p. 2.

<sup>244</sup> As above, p. 3.

However, Mr Paterson did not provide any evidence to confirm that this has occurred.<sup>245</sup> Mr Paterson commented:

The Auditor General's report indicated that he was not satisfied that we could guarantee 100 per cent accuracy. Well, yes, I accept that conclusion. Do I believe that as a result of that conclusion that we should commit so much resource to that task to guarantee 100 per cent accuracy 100 per cent of the time? As I have already indicated, I think that would be a counter-productive exercise.<sup>246</sup>

8.25 In response, the Chair commented:

I take your point. I do not think the Committee, or indeed if I can speak for the Auditor General, I do not think anyone expects everyone to be perfect 100 per cent of the time. My experience is that the Audit Office does not highlight these things on an absolute exception type basis but rather of a general observation that they were not satisfied that perhaps the accuracy level was of the standard that they would expect.

8.26 **Recommendation 2**, that DII develop comprehensive compliance guidance for coal royalties to help mining lease holders comply with the rules, was accepted. In its submission, the Department stated that 'Coal Guidelines, outlining processing issues and defining key points from the Minister's Determination and legislation have been developed'.<sup>247</sup>

8.27 **Recommendation 3**, that DII – in order to improve the accuracy of returns and the efficiency of the royalty return system – require coal mining lease holders to provide supporting evidence with their annual returns and to undertake an independent limited assurance audit of annual returns; and implement an online royalty return system by June 2013, was accepted.

8.28 In its submission, the Department stated that in order to improve the accuracy of returns and the efficiency of the royalty return system, 'annual returns will require confirmation of reconciliation of sales to colliery ledgers' and that the Department will audit 100 per cent of the annual returns instead of having independent assurance.<sup>248</sup> During the public hearing, the Chair inquired whether the Department audited 100 per cent of annual coal returns and if it led to a change in the amount of royalties collected.<sup>249</sup> In its response to the questions on notice, the Department outlined that it is auditing all annual coal royalty returns and that:

In the last two years, the Department has audited 110 annual coal returns, which resulted in refunds being made to two coal leaseholders totalling \$3.4 million and

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<sup>245</sup> Mr Mark Paterson, Director-General, NSW Trade and Investment, Regional Infrastructure and Services, Evidence, 18 June 2012, p. 25.

<sup>246</sup> As above, p. 25.

<sup>247</sup> Submission 2, NSW Trade and Investment, Regional Infrastructure and Services, p. 8.

<sup>248</sup> As above, p. 8.

<sup>249</sup> Mr Jonathan O'Dea, MP, Chair, Public Accounts Committee, Evidence, 18 June 2012, p. 25.

additional royalty payments to the State of \$0.8 million. Thus overall there was a net reduction in royalty payments of \$2.638 million.<sup>250</sup>

8.29 During the public hearing, the Chair also inquired about what sort of supporting evidence leaseholders are required to provide with their annual reports to the Department. In its response to the questions on notice, the Department stated:

Coal leaseholders are required to provide a list of information with their annual royalty returns:

- A reconciliation of stock movements from extraction to sale by coal royalty type (i.e. open cut, underground and deep underground).
- Details of export sales by shipment, including bill of loading date, the name of the vessel, tonnes loaded and the value of the sale.
- Details of sales, purchases and trades between the collieries, including the quantity and value of transactions for the royalty period.
- A reconciliation of total disposals back to the colliery's sales ledgers.<sup>251</sup>

8.30 In relation to the implementation of the electronic data integration project by June 2013, the Department advised that 'the project is on track'.<sup>252</sup> In its response to questions on notice, the Department provided an outline of key milestones for the roll out of the on-line royalty return system.<sup>253</sup> The Department also stated that it is expected that all leaseholders will be able to lodge their royalty returns on-line by 1 July 2013.<sup>254</sup>

8.31 **Recommendation 4**, that DII – to ensure a more structured approach and effective audits – develop a risk-based audit program to better target audit resources; for each audit undertaken, extend the scope from the current one year's royalties to all years since the previous audit; develop audit procedures and train staff; monitor and report on audit progress and findings, and the effectiveness of its compliance activities; and develop a staff rotation policy to better manage the perception of independence, was accepted.

8.32 In its submission, the Department explained that it took a number of actions to ensure that the Auditor-General's recommendation is implemented. These include: documenting risk based audit practices into a policy, ensuring that all annual returns will be audited; developing audit procedures, checklists and standard templates and documents; implementing monitoring of audit progress and findings; providing quarterly performance reporting to the Executive Directors Mineral Resources; and developing a staff rotation policy.<sup>255</sup>

8.33 **Recommendation 5**, that DII – in order to improve compliance – penalise underpayments of royalties identified in audits and annual returns exceeding a

<sup>250</sup> Mr Mark Paterson, Director-General, NSW Trade and Investment, Regional Infrastructure and Services, Answers to questions on notice taken in evidence, 18 June 2012, p. 2.

<sup>251</sup> As above, p. 2.

<sup>252</sup> Submission 2, NSW Trade and Investment, Regional Infrastructure and Services, p. 8.

<sup>253</sup> Mr Mark Paterson, Director-General, Response to the questions on notice, NSW Trade and Investment, Regional Infrastructure and Services, p. 2.

<sup>254</sup> As above, p. 2.

<sup>255</sup> Submission 2, NSW Trade and Investment, Regional Infrastructure and Services, p. 8.

certain percentage (e.g. two per cent) of royalties owed for the year and escalate penalties for consistent late payments of royalties, was accepted. In its submission, the Department stated that interest charges will be introduced for annual returns and audits where the variation is greater than two per cent and that the escalation of penalties for consistent late payment of royalties will be introduced with the Branch's compliance and enforcement policy in June 2012.<sup>256</sup>

- 8.34 At the hearing the Committee inquired about penalties for late or incorrect payments of royalties and whether the Department had a compliance and enforcement policy in place. In its answers to questions on notice, the Department stated that:

The *Mining Act 1992* provides for interest to be charged for late payments at a rate determined by the Minister. Currently the rate is 150 per cent of the Westpac unsecured personal overdraft rate, or 18.885 per cent p.a.

It is also an offence under the *Mining Act 1992* to lodge a late return, make a late payment or provide false or misleading information. Currently the *Mining Act 1992* only provides for penalties to be imposed by judgment of the NSW Supreme Court. The Department is developing a compliance and enforcement policy to enable the issuance of infringement notices and to pursue the matters through the courts.<sup>257</sup>

- 8.35 The Committee also asked how many leaseholders have been penalised for late or incorrect payments. The Department advised that 'in the past two financial years the Department has imposed interest on 30 leaseholders, and recovered \$294,000'.<sup>258</sup>

- 8.36 **Recommendation 6**, that NSW Treasury, in consultation with DII and the Department of Premier and Cabinet, undertake a detailed review of the merits of transferring the administration of royalties to the Office of State Revenue by June 2011, was accepted. In its submission, the Department stated that 'a Committee, chaired by NSW Treasury, will undertake a review and provide recommendations to Cabinet'.<sup>259</sup>

- 8.37 In its initial response to the report's recommendation to review the merits of transferring the administration of royalties to the Office of State Revenue, Mr Schur, Secretary, NSW Treasury emphasised that the Northern Territory is the only other state or territory in Australia where the administration of the mining royalties is conducted by the Office of State Revenue (OSR).<sup>260</sup>

- 8.38 In its submission, NSW Treasury stated that it accepts the audit's recommendation to undertake a detailed review of the merits of transferring the administration of royalties to the Office of State Revenue by June 2011.<sup>261</sup>

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<sup>256</sup> As above, p. 8.

<sup>257</sup> Mr Mark Paterson, Director-General, NSW Trade and Investment, Regional Infrastructure and Services, Answers to questions on notice taken in evidence, 18 June 2012, p. 3.  
As above, p. 3.

<sup>259</sup> Submission 2, NSW Trade and Investment, Regional Infrastructure and Services, p. 8.

<sup>260</sup> NSW Auditor-General's Report, 'Performance Audit: Coal Mining Royalties', November 2010, p. 6.

<sup>261</sup> Submission 7, NSW Treasury, p. 2.

Moreover, NSW Treasury provided an update on the progress of the implementation of this recommendation, stating that:

- NSW Treasury has set up a working party consisting of representatives from NSW Treasury (chair), the Department of Premier and Cabinet, Department of Finance and Services (Office of State Revenue) and the Department of Trade and Investment, Regional Infrastructure and Services to review the merits of transferring the administration of royalties to the Office of State Revenue.
- The working party met on 3 March 2011 and 13 May 2011, with additional one on one meetings being held between various members of the working party to gain background information on the current administrative arrangements for royalties collection.
- Work associated with the preparation of the 2011-12 Budget and Half-Yearly Review caused the deliberations of the working party to be suspended temporarily. The working party intends to resume its deliberations, with a recommendation to be made in 2012.<sup>262</sup>

8.39 The Committee noted that implementation of the recommendation to undertake a review of the merits of transferring the administration of royalties to the Office of State Revenue by June 2011 was delayed and wrote to NSW Treasury to seek further information. In response, NSW Treasury stated that the working party had completed the following:

- a detailed analysis and site visit of the Royalty and Statistics branch of DTIRIS to evaluate the current administrative arrangements;
- submission to the working party by OSR on the applicability of its current activities to royalty administration, and capability to assume this function; and
- consultation and site visit by representatives of the Royalty and Statistics branch to OSR site.<sup>263</sup>

8.40 NSW Treasury advised that the review, as recommended by the Auditor-General, is expected to be completed by December 2012.<sup>264</sup>

8.41 At the public hearing, the Chair expressed his disappointment with the delay in implementation of this recommendation:

... it is disturbing that NSW Treasury has not yet progressed its working parties to a stage where it seems to have properly considered the issue and made recommendations. My understanding is that NSW Treasury initially advised that it was going to review the potential transfer of minerals royalty collection to the OSR by June 2011.<sup>265</sup>

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<sup>262</sup> As above, p. 1.

<sup>263</sup> Mr Philip Gaetjens, Secretary, NSW Treasury, Correspondence to the Committee, 3 July 2012, p. 1.

<sup>264</sup> As above, p. 1.

<sup>265</sup> Mr Jonathan O'Dea MP, Chair, Public Accounts Committee, Evidence, 18 June 2012, p. 24.

### Committee Comment

- 8.42 The Committee is pleased that the Department has started implementing the Auditor-General's recommendation in relation to penalties. This is a key change as – up until the audit – companies that did not pay the correct amount of royalties were generally not penalised at all. The Committee looks forward to improved compliance as a result of these changes.
- 8.43 Based on the evidence gathered, the Committee could not determine exactly what the Department has done to implement the Auditor-General's recommendation relating to quality assurance standards, procedures and record-keeping of data validation reviews to enhance the accuracy of information on coal royalty payments. The Department has not provided sufficient evidence to convince the Committee that it has a policy of continuous improvement in place.
- 8.44 The Committee is also pleased that the Department is working on the implementation of the Auditor-General's recommendation to phase out the paper-based system and replace it with an on-line royalty return system, ensuring that information that supports the collection of coal mining royalties is accurate and current.
- 8.45 The Committee is disappointed that the Auditor-General's recommendation to undertake a detailed review of the merits of transferring the administration of royalties to the Office of State Revenue by June 2011 was delayed. The Committee looks forward to completion of the review by the end of 2012.

### RECOMMENDATION 6

**The Committee recommends that by 1 July 2013 the Department of Trade and Investment, Regional Infrastructure and Services develop and implement a policy of continuous improvement of its systems and procedures to ensure accurate and current information on royalty payments is in place.**

### RECOMMENDATION 7

**The Committee recommends that NSW Treasury publicly release a statement, following the working party's assessment of the merits of transferring the administration of royalties to the Office of State Revenue, detailing the outcome of the review by the end of 2012.**

# Chapter Nine – Protecting the Environment: Pollution Incidents

## Introduction

- 9.1 At the time of the Auditor-General's audit, the Department of Environment, Climate Change and Water (the Department) was the peak environmental regulator in NSW. The *Protection of the Environment Operations Act 1997* (the *POEO Act*) provided the Department with the authority to punish persons or businesses that deliberately caused harm to human health or the environment (including pollution, chemicals, waste and radiation).<sup>266</sup>
- 9.2 The Department was also responsible for reporting on, co-ordinating and monitoring pollution incidents to ensure environmental harm is minimised. It used a range of administrative and regulatory tools to protect the environment and the tools also act as a deterrent against breaches if these are used effectively. The *POEO Act* provides substantial financial penalties for proven serious breaches.<sup>267</sup>
- 9.3 The *Protection of the Environment Legislation Amendment Act 2011* split the responsibilities of the Department between the new Office of Environment and Heritage (part of the Department of Premier and Cabinet) and the Department of Trade and Investment. The amendment of the *POEO Act* prescribed the NSW Environment Protection Authority (EPA), which forms part of the Office of Environment and Heritage, as the peak environmental regulator in NSW. The EPA now fulfils the pollution incident responsibilities performed previously by the Department of Environment, Climate Change and Water. The Minister for the Environment remains the responsible minister.<sup>268</sup>
- 9.4 Because of this change, the NSW Environment Protection Authority has responded to the Committee's original recommendations to the Department of Environment, Climate Change and Water.

## The Performance Audit

- 9.5 The Auditor-General assessed how well the Department manages pollution incidents to minimise harm to the environment. In particular, the audit examined whether the Department:
- knows about pollution incidents that harm the environment; and
  - investigates and responds to pollution incidents.<sup>269</sup>

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<sup>266</sup> NSW Auditor-General, 'Performance Audit: Protecting the Environment: Pollution Incidents', September 2010, p. 2.

<sup>267</sup> As above, p. 2.

<sup>268</sup> Submission No 3, Environment Protection Authority, p. 1.

<sup>269</sup> NSW Auditor-General, 'Performance Audit: Protecting the Environment: Pollution Incidents', September 2010, p. 2.

## Audit Conclusions

- 9.6 Overall, the Auditor-General found that while the Department has a systematic approach to receiving, investigating and reporting on pollution incidents, it does not analyse and report on the extent of environmental harm, whether its response minimises any harm, and whether its regulatory approach has improved compliance.<sup>270</sup>
- 9.7 In his examination of the question of whether the Department knows about pollution incidents that harm the environment, the Auditor-General found that the Department has a structured approach to receiving reports of environmental incidents, consisting of a central Environment Line call centre that receives such reports from both the community and licensees.<sup>271</sup> He noted that even though the volume of calls to the line had increased over the last three years, potentially indicating an increased awareness of the line, the Department had not conducted any analysis or research into the effectiveness or public awareness of the Environment Line.<sup>272</sup>
- 9.8 Furthermore, the Auditor-General found the Department's awareness of pollution incidents was heavily reliant on the public reporting through the Environment Line. Despite this reliance, he found that Department publication materials, including the website, failed to identify the Environment Line as the primary phone number for reporting pollution incidents and that several brochures failed to display the number either clearly, or at all.<sup>273</sup>
- 9.9 In relation to the sources of pollution incidents, the Auditor-General found that whilst there had been an increase in pollution reports implicating licensed premises, the Department had failed to perform any analysis to ascertain the cause of the increase. Despite this, he did find that the increase coincided with an increase in the Department's inspection of high-risk licensees.<sup>274</sup>
- 9.10 In relation to recording pollution incident reports, the Auditor-General found that key information, such as the implication of licensed premises, the Environment Protection Licence (EPL) number, the level of risk and whether the licensee has self-reported, is not captured in a way which would allow state-wide analysis to be conducted. This makes it difficult for the Department to report on licensee compliance and outcomes. He also found that the Department's guidelines for data collection were not being applied consistently.<sup>275</sup> The Auditor-General concluded that the lack of state-wide analysis about reports of pollution incidents implicating licensed premises makes it difficult for the Department to report on licensee compliance and outcomes.<sup>276</sup>

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<sup>270</sup> NSW Auditor-General, 'Performance Audit: Protecting the Environment: Pollution Incidents', September 2010, p. 2.

<sup>271</sup> As above, p. 2.

<sup>272</sup> As above, p. 10.

<sup>273</sup> As above, p. 10.

<sup>274</sup> As above, p. 12.

<sup>275</sup> As above, p. 14.

<sup>276</sup> As above, p. 14.

- 9.11 In relation to compliance audits, which include unannounced inspections of targeted premises or activities and can result in action plans that are developed to address problems or non-compliance, the Auditor-General found that there was no central monitoring of progress made in the implementation of the action plans.<sup>277</sup>
- 9.12 In assessing whether the Department investigates and responds to pollution incidents that harm the environment, the Auditor-General found that whilst the Department applies a risk-based approach to responding to pollution incidents, it does not record the process used in individual incidents.<sup>278</sup> The Auditor-General concluded that this lack of internal reporting and analysis, which is required for effective assessment of the Department's response to pollution incidents, prevents any evaluation of consistent applications of risk-assessments.<sup>279</sup>
- 9.13 In relation to regulatory performance, the Auditor-General aimed to find a link between reports of incidents and regulatory actions, but was unable to do so, as the Department could not readily inform him of the rate of regulatory action taken or the number of discrete pollution incidents that have occurred.<sup>280</sup> The Auditor-General also found that despite being the norm for regulatory action to be measured by compliance rates, the Department does not have a performance measure that demonstrates its effectiveness in achieving better compliance.<sup>281</sup>
- 9.14 In relation to enforcement of incident reporting by licensees, the Auditor-General found that the Department has not done any analysis to assure itself that licensees are fulfilling their requirements to self-report pollution incidents as prescribed by Part 5.7 of the *PEOA Act*.<sup>282</sup> Despite this legislated obligation, he found that the Department accepts that licensees are not obligated to report all incidents, which has created a gap in its information systems.<sup>283</sup> The Department does not believe that failing to report is a widespread problem, due to the small number of cases reported; however, the Auditor-General proposed this could indicate a lack of detection.<sup>284</sup>
- 9.15 The Auditor-General found that as an alternative to prosecution, the Department uses variations in licence conditions to respond to pollution incidents. However, the Department does not centrally analyse the use of variations, resulting in the inability to report aggregate data on why licences are varied or the extent to which environmental outcomes have been improved.<sup>285</sup>
- 9.16 In assessing the Department's effectiveness in responding to pollution incidents, the Auditor-General found that the Department was unaware of what happens to the 20 per cent of pollution incident reports that the Department refers to other

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<sup>277</sup> As above, p. 15.  
<sup>278</sup> As above, p. 16.  
<sup>279</sup> As above, p. 16.  
<sup>280</sup> As above, p. 17.  
<sup>281</sup> As above, p. 18.  
<sup>282</sup> As above, p. 13.  
<sup>283</sup> As above, p. 13.  
<sup>284</sup> As above, p. 21.  
<sup>285</sup> As above, p. 22.

authorities.<sup>286</sup> While these referrals occur as prescribed by the *PEOA Act*, the *Protection of the Environment Administration Act 1991* requires the Department to maintain general oversight responsibility. Despite this responsibility, the Department does not require performance reporting by these authorities in relation to these referrals.<sup>287</sup> The Auditor-General expressed concern about the gap in information about pollution incidents, and the actual extent of environmental harm.<sup>288</sup>

9.17 Ms Lisa Corbyn, Director General, Department of Environment and Climate Change and Water, provided initial comments on the Auditor-General's report on 1 September 2010. She stated that while the Department accepted that improved data collection and reporting would be useful and aimed to improve centralised capture, analysis and monitoring, it disagreed with the implication that it did not consider environmental harm when responding to pollution incidents. Ms Corbyn cited the overarching Operating Principles that are in place to assist the Department's staff to undertake their work in a consistent and effective way, and emphasised the importance of proportionate response in dealing with non-compliances or incidents, including the consideration of the potential environmental harm caused.<sup>289</sup> Ms Corbyn concluded that 'the Department will work to improve the centralised capture, analysis and monitoring of response, although the timeframes may need to be adjusted to take into account the challenges and costs of developing state-wide databases'.<sup>290</sup>

### Auditor-General's Recommendations

9.18 In order to improve how the Department of Environment, Climate Change and Water manages pollution incidents to minimise harm to the environment, the Auditor-General made recommendations for the Department to improve pollution incident reporting, data collection and analysis, monitoring compliance, and its fulfilment of its oversight functions. More specifically, the Auditor-General made eight recommendations across four key areas to improve the management of pollution incidents in NSW:

<b>Recommendations</b>	
1.	Implement centralised recording and analysis of key information to improve the quality of data used for decision making and measuring performance, including:
	a) for each pollution incident report, accurately record in a central database: <ul style="list-style-type: none"> <li>I. the EPL number of the licensee implicated;</li> <li>II. whether the report is made by the licensee; and</li> <li>III. the assessed risk of the pollution incident;</li> </ul>

<sup>286</sup> As above, p. 23.

<sup>287</sup> As above, p. 12.

<sup>288</sup> As above, p. 23.

<sup>289</sup> As above, p. 4.

<sup>290</sup> As above, p. 4.

	b) centrally check that compliance audit action plans are completed within required timeframes;
	c) regularly analyse the risk profile of pollution incident reports
	d) report on how many separate pollution incidents have occurred
	e) develop and regularly analyse results-based performance measures, including compliance rates.
2.	Regularly analyse the reasons that Environment Protection Licences are varied.
3.	Better distinguish the Environment Line number for reporting pollution incidents on its brochures, publications and website to make it easy for the public to report pollution incidents.
4.	Make recommendations to the Government on how to resolve the inconsistencies between the <i>Protection of the Environment Administration Act 1991</i> and the <i>Protection of the Environment Operations Act 1997</i> regarding environment protection regulatory responsibilities in NSW.

### The Committee's examination

9.19 As part of its follow-up of the Auditor-General's Performance Audits, the Committee wrote to the EPA on 28 February 2012, inviting the EPA to provide a submission, detailing action taken in response to the Performance Audit. The EPA responded on 4 April 2012. The submission was forwarded to the Auditor-General for comment, and he in turn responded on 9 May 2012. On 28 May 2012, the Committee wrote to the EPA seeking a response to additional questions from the Committee. The EPA's response was received on 21 June 2012.

9.20 In its submission, the EPA responded to each of the Auditor-General's recommendations, stating that it accepts three recommendations without qualifications, three with qualifications, one in principle, and rejected two of the recommendations. The EPA also highlighted that since the Auditor-General's audit was conducted, the Government has introduced the *Protection of the Environment Legislation Amendment Act 2011*, which established the EPA as the environment regulator and strengthened the requirements for industry to report and respond to pollution incidents, as well as community access to information about industry performance.<sup>291</sup>

9.21 **Recommendation 1.a**, to ensure that each pollution incident report is accurately recorded in a central database and includes: the EPL number of the licensee implicated; whether the report is made by the licensee; and the assessed risk of the pollution incident, was accepted in part. While the Department accepted the

<sup>291</sup> Submission No. 3, Environment Protection Authority, Appendix, p. 1.

recording of the assessed risk, it stated that recording the EPL number already takes place and that the EPL number could not always be recorded as not all incidents relate to licences. The Department stated that the recording of the assessed risk is yet to be implemented due to delays in enhancing software systems.<sup>292</sup>

9.22 On 22 August 2012, the EPA verbally confirmed that the software system upgrade had been completed. However, the Committee is not a position to assess the software to confirm that the recommendation has been implemented.

9.23 **Recommendation 1.b**, to centrally check that compliance audit action plans are completed within required timeframes, was accepted and implemented. The EPA stated that its procedures have been amended to ensure that where audits have been conducted by the central Environmental Audit Unit, regional officers will report on the status of action plans centrally.<sup>293</sup>

9.24 **Recommendation 1.c**, to regularly analyse the risk profile of pollution incident reports, was accepted in part. The EPA stated that it would investigate feasible options, subject to limitations, for centrally analysing and reporting risk profiles. However, progress in implementing this has been delayed due to delays in enhancing software systems.<sup>294</sup>

9.25 As mentioned above, the software system has been completed by the EPA. However, the Committee has not received any evidence to confirm that the EPA has implemented this recommendation or investigated feasible options.

9.26 **Recommendation 1.d**, to report on how many separate pollution incidents have occurred, was accepted in principle. The Department argued that due to the functionality of the current database it was not possible to report on separate incidents. However, as part of its enhancement of software systems, it would investigate the feasibility of including the functionality to enable such reporting.<sup>295</sup>

9.27 **Recommendation 1.e**, to develop and regularly analyse results-based performance measures, including compliance rates, was accepted and implemented. The EPA initially stated that it already has a suite of performance indicators in place to monitor performance, which are reported on in its annual report.<sup>296</sup>

9.28 The Committee requested further information in relation to Recommendation 1.e:

Can you please provide examples of the additional indicators, which you have developed, and the corresponding results? In particular, can you outline if these indicators enable the EPA to analyse and report on:

<sup>292</sup> Submission No. 3, Environment Protection Authority, Appendix p. 1.

<sup>293</sup> Submission No. 3, Environment Protection Authority, Appendix p. 3.

<sup>294</sup> As above, p. 3.

<sup>295</sup> As above, p. 3.

<sup>296</sup> As above, p. 3.

- The extent of environmental harm caused by pollution incidents reported to you,
- If your response has minimised harm to the environment, and
- Whether our regulatory approach has improved compliance, particularly by Environment Protection Licence (EPL) holders.

9.29 In response, the EPA provided a list of key performance indicators for two key result areas, namely, one being 'Reduce environmental impacts and improve environmental outcomes', and the other 'Responsive incident management'. These indicators have since been implemented and are part of the Department's Strategic Plan for 2012-2015.<sup>297</sup>

9.30 **Recommendation 2**, to ensure that information about the reasons that Environment Protection Licences are varied is regularly analysed, was rejected. The Department believed this was not necessary as each variation notice clearly states the reasons for varying, and that these notices are publically available on its website.<sup>298</sup>

9.31 The Committee requested a response to the following question in relation to Recommendation 2:

In his report, the Auditor General noted that licence conditions are used to control environmental impacts and that licence conditions are frequently varied. Your response indicated that the EPA does not intend to aggregate or centrally analyse the use of licence variations. In the absence of this analysis, how does the EPA assess the extent to which variations to licence conditions impact environmental outcomes (locally, regionally, and state-wide)?

9.32 In response to the additional question, the EPA outlined the multi-stage processes it follows in amending licences and stated that it reviews each licence every five years in accordance with s78 of the *POEO Act*.<sup>299</sup>

9.33 **Recommendation 3**, to ensure that the Environment Line number for reporting pollution incidents is better distinguished on its brochures, publications and website to make it easy for the public to report pollution incidents, was accepted and implemented. The EPA's website has been updated to give increased prominence to information about reporting pollution incidents and all relevant publications now list the Environment Line as the primary number for reporting pollution incidents.<sup>300</sup>

9.34 **Recommendation 4**, to make recommendations to the Government on how to resolve the inconsistencies between the *Protection of the Environment Administration Act 1991* and the *Protection of the Environment Operations Act 1997* regarding environment protection regulatory responsibilities in NSW, was accepted. The EPA stated that its review revealed no inconsistencies between the

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<sup>297</sup> Mr Barry Buffier, Environment Protection Authority, Correspondence to the Committee, 21 June 2012, p. 3.

<sup>298</sup> Submission No 3, Environment Protection Authority, Appendix, pp. 3-4.

<sup>299</sup> Mr Barry Buffier, Environment Protection Authority, Correspondence to the Committee, 21 June 2012, p. 3.

<sup>300</sup> Submission No 3, Environment Protection Authority, Appendix, p. 4.

Acts and that its findings were presented to the Minister for Climate Change and the Environment, who concurred that no action was needed.<sup>301</sup>

9.35 The Committee requested a response to following question in relation to Recommendation 4:

"How does the EPA/OEH fulfil its oversight responsibilities under the *Protection of the Environment Administration Act 1991*, and in particular how does the EPA/OEH respond to pollution incidents to:

- Ensure that pollution incidents are addressed and that the EPA/OEH coordinates the activities of all public authorities, and
- Inquire into and report on the effectiveness of the response to pollution incidents?"

9.36 In response, the EPA stated that "the regulatory framework under the *POEO Act* and associated support mechanisms for local government effectively deal with environmental regulatory responsibilities in NSW."<sup>302</sup>

### Committee Comment

9.37 The Committee acknowledges the efforts of the EPA in implementing the majority of the Auditor-General's recommendations.

9.38 The Committee commends the EPA for its work towards enhancing software systems that will provide better data collection on pollution incidents, and hence improve decision making and performance measurement. As the systems were yet to be completed at the time of EPA's submission, the Committee is not in a position to make a determination in relation to the implementation of the Auditor-General's recommendations.

9.39 The Committee has found no evidence that the EPA centrally analyses the risk profiles of pollution incident reports. The Committee is concerned that without such analysis the EPA will be unable to ensure that each incident is assessed for risk and that a consistent approach to assessing risk is being applied. As a result, the EPA may not be in a position to properly analyse trends and resource usage.

9.40 The Committee is pleased to note that the EPA has now developed new key performance indicators, which should assist the EPA in ascertaining its effectiveness in dealing with pollution incidents.<sup>303</sup>

9.41 The Committee is disappointed that the EPA does not aggregate or centrally analyse the use of licence variations.<sup>304</sup> Such analysis is imperative in determining the effectiveness of licence variations as a mechanism to reduce environmental harm.

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<sup>301</sup> Submission No 3, Environment Protection Authority, Appendix p. 6.

<sup>302</sup> Mr Barry Buffier, Environment Protection Authority, Correspondence to the Committee, 21 June 2012, p. 6.

<sup>303</sup> As above, p. 3.

<sup>304</sup> As above, p. 4.

- 9.42 The Committee notes the work of the EPA in providing assistance to other authorities to which it delegates management of pollution incidents and the EPA's ability to become involved in delegated incidents that receive an insufficient response. However, the EPA has not demonstrated what measures it has in place to ensure that other authorities are adequately dealing with pollution incidents referred to them or whether other authorities are fulfilling their pollution incident reporting duties. The Committee is concerned that the EPA's failure to fulfil its oversight responsibilities in this regard may lead to a gap in information about pollution incidents and hence knowledge about the actual extent of environmental harm in NSW.

#### RECOMMENDATION 8

**The Committee recommends that by 1 July 2013, the Environment Protection Authority implements central reporting and analysis of the risk profiles of pollution incident reports to ensure that each incident is assessed for risk and that a consistent approach is being applied across the Department.**

#### RECOMMENDATION 9

**The Committee recommends that by 1 July 2013, the Environment Protection Authority implements a policy to aggregate or centrally analyse the use of licence variations to ensure the consistent application of variations and to provide an indicator for determining the effectiveness of the Department's regulatory actions in reducing environmental harm.**

#### RECOMMENDATION 10

**The Committee recommends that by 1 July 2013, the Environment Protection Authority implements an appropriate reporting mechanism for other authorities to which it refers pollution incidents in order to ensure that information about management of pollution incidents is received and analysed by the EPA.**

## Appendix One – List of Submissions

1. NSW Treasury
2. NSW Trade & Investment, Regional Infrastructure and Services
3. Environment Protection Authority
4. NSW Department of Health
5. NSW Department of Health
6. Corrective Services NSW
7. The Treasury
8. Public Service Commission
9. Audit Office of NSW
10. Department of Premier and Cabinet
11. Audit Office of NSW

## Appendix Two – List of Witnesses

Monday 18 June 2012, Jubilee Room, Parliament House

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### Witness

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#### **Audit Office of NSW**

Mr Peter Achterstraat  
Auditor -General

Mr Robert Mathie  
Assistant Auditor-General for New South Wales

Mr Sean Crumlin  
Director, Performance Audit

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#### **Department of Premier and Cabinet**

Mr Phil Minns  
Deputy Director General,  
Government Group

Ms Emily Morgan,  
A/Chief Information Officer

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#### **Department of Finance and Services**

Mr Malcolm Freame  
Acting Chief Information Officer

Mr William Murphy  
Executive Director, ICT Policy

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#### **NSW Ministry of Health**

Dr Rohan Hammett,  
Deputy Director General, Strategy & Resources

Mr David McGrath,  
Director Mental Health and Drug and Alcohol Office

PUBLIC ACCOUNTS COMMITTEE  
LIST OF WITNESSES

Ms Robyn Burley,  
Director, Workforce Planning & Development

Ms Karen Crawshaw  
Deputy Director General, Governance, Workforce & Corporate

**Department of Trade and Investment, Regional Infrastructure and Services**

Mr Mark Paterson  
Director General

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**Ambulance Service of NSW**

Commissioner Mike Willis  
Acting Chief Executive, Ambulance Service of NSW

Dr Ron Manning, Director  
Statewide Services, Ambulance Service of NSW

## Appendix Three – Extracts from Minutes

### MINUTES OF PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE (NO. 14)

9.30 am, Thursday, 16 February 2012  
Room 1043, Parliament House

#### MEMBERS PRESENT

Mr O’Dea, Mr Torbay, Mr Bassett, Mr Williams and Mr Daley.

#### APOLOGIES:

Apologies were received from Dr Lee.

#### 1. Confirmation of Minutes

Resolved on the motion of Mr Bassett: That the minutes of the meeting of 25 January 2012 be confirmed.

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#### 9. Inquiry into follow-up of Auditor-General's Performance Audits

The following agencies were subject to performance audits between June 2010 and February 2011:

- Home Detention;
- Protecting the Environment: Pollution Incidents;
- Helicopter Emergency Medical Service Contract;
- Electronic Information Security;
- NSW Lotteries Sales Transactions;
- Coal Mining Royalties;
- Sick Leave;
- Mental Health Workforce.

Resolved, on the motion of Mr Torbay, seconded by Mr Williams: That the Committee commence an inquiry to follow up these performance audits and that the Chair write to all agencies subject to performance audits during the period September 2010 to February 2011 seeking a written response addressing action taken on recommendations made in the audit reports.

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#### 11. Next meeting

The Committee adjourned at 10.29 until 7.30 am on Friday, 17 February 2012.

## MINUTES OF PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE (NO. 18)

9:00 am, Monday, 26 March 2012  
Macquarie Room, Parliament House

### MEMBERS PRESENT

Mr O’Dea, Dr Lee, Mr Bassett, Mr Daley and Mr Williams.

### APOLOGIES:

Apologies were received from Mr Torbay.

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## 6. Auditor-General's Performance Audits

Resolved, on the motion of Dr Lee, seconded by Mr Daley: That the Committee publish the submission from NSW Treasury re: NSW Lotteries Sale Transaction, dated 21 March on its website, and forward a copy to the Auditor-General for his consideration and comment.

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## 8. Next meeting

The Committee adjourned at 4.45pm until 9.30 am on Thursday, 29 March 2012.

## MINUTES OF PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE (NO. 20)

9:45 am, Wednesday, 4 April 2012  
Jubilee Room, Parliament House

### MEMBERS PRESENT

Mr O'Dea, Mr Bassett, Mr Daley, Dr Lee, Mr Torbay and Mr Williams.

#### 1. Confirmation of minutes of meeting of 29 March 2012

Resolved, on the motion of Mr Torbay, seconded by Dr Lee: That the minutes of the meeting of 29 March 2012 be confirmed.

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#### 3. Auditor-General's Performance Audits September 2010 – February 2011

Resolved, on the motion of Mr Williams, seconded by Dr Lee: That the Committee publish any submissions received from agencies subject to audit on its website.

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#### 7. Next meeting

The Committee adjourned at 10.30am until 9.45am on Thursday 3 May 2012.

## MINUTES OF PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE (NO. 21)

10.05 am, Wednesday, 2 May 2012  
Room 1254, Parliament House

### MEMBERS PRESENT

Mr O’Dea, Mr Bassett, Mr Daley, Mr Torbay and Mr Williams.

### APOLOGIES:

An apology was received from Dr Lee.

### 1. Confirmation of minutes of meeting of 4 April 2012

Resolved, on the motion of Mr Williams, seconded by Mr Torbay: That the minutes of the meeting of 4 April 2012 be confirmed.

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### 2. Auditor-General's Performance Audits September 2010 – February 2011

- i. Submission 2, NSW Trade and Investment re: Coal Mining Royalties, dated 1 April 2012.
- ii. Submission 3, Environment Protection Authority re: Protecting the Environment: Pollution Incidents, dated 4 April 2012.
- iii. Submission 4, NSW Health re: Helicopter Emergency Medical Service Contract, dated 11 April 2012.
- iv. Submission 5, NSW Health re: Mental Health Workforce, dated 12 April 2012.
- v. Submission 6, Corrective Services NSW re: Home Detention, dated 13 April 2012.
- vi. Submission 7, The Treasury re: Coal Mining Royalties, dated 23 April 2012.
- vii. Submission 8, NSW Public Service Commission re: Sick Leave, dated 23 April 2012.

Resolved, on the motion of Mr Williams, seconded by Mr Bassett: That the Committee accept the submissions received and publish them on its website.

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### 9. Next meeting

The Committee adjourned at 10.35am until 9.45am on Thursday 10 May 2012.

## MINUTES OF PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE (NO. 22)

9.45 am, Thursday, 10 May 2012  
Room 1053, Parliament House

### MEMBERS PRESENT

Mr O'Dea, Dr Lee, Mr Bassett, Mr Torbay and Mr Daley.

### APOLOGIES:

An apology was received from Mr Williams.

### 1. Confirmation of minutes of meeting of 2 May 2012

Resolved, on the motion of Mr Torbay, seconded by Mr Bassett: That the minutes of the meeting of 2 May 2012 be confirmed.

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### 3. Auditor-General's Performance Audits September 2010 – February 2011

Further submissions received:

- i. Submission 9, Audit Office of NSW, dated 9 May
- ii. Submission 10, Department of Premier and Cabinet, dated 9 May 2012

Resolved, on the motion of Mr Torbay, seconded by Dr Lee: That the Committee accept submissions 9 & 10 and publish them on its website.

The Committee also decided to conduct a public hearing on the Inquiry into the follow-up of the Auditor-General's Performance Audits September 2010 – February 2012 on Monday 18 June, preferably before lunchtime. Mr Torbay indicated that he may be able to attend by teleconference.

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### 8. Next meeting

The Committee adjourned at 10.45am until 9.30am on Friday 11 May 2012.

## MINUTES OF PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE (NO. 24)

9.45 am, Thursday, 24 May 2012  
Room 1043, Parliament House

### MEMBERS PRESENT

Mr O'Dea (Chair), Dr Lee (Deputy Chair), Mr Bassett, Mr Torbay and Mr Williams.

#### 1. Confirmation of minutes of meetings on 10 and 11 May 2012

Resolved, on the motion of Mr Bassett, seconded by Mr Williams: That the minutes of the meetings held on 10 May 2012 and 11 May 2012 be confirmed.

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#### 5. Follow up of the Auditor-General's Performance Audits September 2010 – February 2011

- i. Submission 11, from the Audit Office of NSW, dated 16 May 2012

Resolved, on the motion of Mr Torbay, seconded Mr Bassett: That the Committee publish Submission 11 on its website.

- ii. Briefing note on submissions received

Resolved, on the motion of Mr Bassett, seconded Mr Torbay: That the Committee note the brief and:

- write to eight of the nine agencies subject to audit to seek further information in response to the Auditor-General's comments; and,
- conduct a public hearing on Monday 18 June to examine witnesses from the Department of Premier and Cabinet, NSW Health, the Department of Trade and Investment, Regional Infrastructure and Services, and the Ambulance Service of NSW.

\*\*\*\*\*

The Committee adjourned at 10.05 am until 9.45 am on Thursday, 31 May 2012.

## MINUTES OF PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE (NO. 26)

9.45 am, Thursday, 14 June 2012  
Room 1043, Parliament House

### MEMBERS PRESENT

Mr O'Dea, Dr Lee, Mr Bassett, Mr Daley, Mr Torbay and Mr Williams.

### 1. Confirmation of previous minutes

Resolved, on the motion of Mr Bassett, seconded by Dr Lee: That the minutes of the meeting of 31 May 2012 be confirmed.

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### 4. Follow-up of the Auditor-General's Performance Audits September 2010 – February 2011

The Committee noted the hearing schedule for the hearing on 18 June 2012 and the indicative questions.

Resolved, on the motion of Mr Williams, seconded by Dr Lee: That the Committee write to Mr Andrew Scipione, NSW Police Commissioner, to request information about the effectiveness of anklets used to monitor home detainees.

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### 7. Next meeting

The Committee adjourned at 10.10am until 9.45am on Thursday 21 June 2012.

## MINUTES OF PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE (NO. 27)

9.30 am, Monday, 18 June 2012  
Jubilee Room, Parliament House

### MEMBERS PRESENT

Mr O’Dea, Dr Lee, Mr Bassett, Mr Daley, and Mr Williams.

### APOLOGIES:

An apology was received from Mr Torbay

### 1. Public hearing on the follow up of the Auditor-General's Performance Audits September 2010 – February 2011

Witnesses and the public were admitted.

Mr Peter Achterstraat, Auditor-General, Audit Office of NSW, sworn and examined, and Mr Sean Crumlin, Director, Performance Audit, Audit Office of NSW, sworn and examined.

Ms Emily Morgan, Acting Chief information Officer, Department of Premier and Cabinet, affirmed and examined. Mr Phil Minns, Deputy Director-General, Department of Premier and Cabinet, sworn and examined. Mr William Murphy, Executive Director, ICT Policy, Department of Finance and Services, and Mr Malcolm Freame, Acting Chief Information Officer, affirmed and examined.

The Chair asked Ms Morgan, Mr Minns, Mr Murphy and Mr Freame to write to the Committee and provide an update on the progress of the ICT Working Group in early July 2012.

Ms Morgan, Mr Minns, Mr Murphy and Mr Freame agreed to take questions on notice.

Evidence completed, Ms Morgan, Mr Minns, Mr Murphy, Mr Freame and Mr Crumlin withdrew.

Dr Rohan Hammett, Deputy Director-General, Strategy and Resources, NSW Health, Mr David McGrath, Director, Mental Health and Drug and Alcohol Office, NSW Health, and Ms Robyn Burley, sworn and examined.

Mr Rob Mathie, Deputy Director General, Performance Audit, Audit Office of NSW, sworn and examined.

Mr Williams joined the meeting at 10.30am.

Dr Hammett, Mr McGrath and Ms Burley agreed to provide a progress report on the implementation of the State-wide Management Reporting Tool by 30 July 2012, and to take other questions on notice and provide answers by 30 July 2012.

Mr Daley left the meeting at 10.45am.

Evidence completed, Dr Hammett, Mr McGrath and Ms Burley withdrew.

The Committee adjourned at 10.55am.

The Committee resumed at 11.10am.

Mr Mark Paterson, Director-General, Department of Trade and Investment, Regional Infrastructure and Services, affirmed and examined.

Mr Paterson agreed to take questions on notice and provide answers by Monday 16 July.

Mr Paterson withdrew.

Mr Mathie withdrew.

Mr Mike Willis, Commissioner, Ambulance Service of NSW, Dr Ron Manning, Director, Statewide Services, Ambulance Service of NSW, and Ms Karen Crawshaw, Deputy Director-General, Governance and Workforce, Corporate, NSW Health, sworn and examined.

Mr Crumlin also re-joined the hearing.

Mr Willis, Dr Manning and Ms Crawshaw agreed to take questions on notice and provide answers by Monday 16 July.

Evidence completed, Mr Willis, Dr Manning and Ms Crawshaw withdrew.

Mr Achterstraat and Mr Crumlin also withdrew.

The public withdrew.

## **2. Publication of transcript of hearing 18 June 2012**

Resolved, on the motion of Mr Bassett, seconded by Dr Lee: That the Committee publish the transcript of the public hearing on 18 June 2012 on its website once members and witnesses have had an opportunity to correct any errors in the transcript.

## **3. Answers to questions on notice**

Resolved, on the motion of Dr Lee, seconded by Mr Williams: That the Committee request that answers to questions taken on notice at the public hearing on 18 June 2012 be provided by 30 June, mid-July or the end of July 2012 as indicated in the transcript of the hearing.

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## **5. Next meeting**

The Committee adjourned at 12.50pm until 9.45am on Thursday 21 June 2012.

## MINUTES OF PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE (NO. 30)

9.45 am, Thursday, 16 August,  
Room 1043, Parliament House

### MEMBERS PRESENT

Mr O'Dea, Dr Lee, Mr Bassett, Mr Daley, Mr Torbay and Mr Williams.

### APOLOGIES:

Mr O'Dea advised that he may arrive late.

The meeting opened at 9.45am. As the Mr O'Dea was not present, Dr Lee took the Chair.

### 1. Confirmation of minutes of meeting of 20 July 2012

Resolved, on the motion of Mr Torbay, seconded by Mr Bassett: That the minutes of the meeting of 20 July 2012 be confirmed.

### 2. Follow-up of the Auditor-General's Performance Audits September 2010 – February 2011

#### i. Answers to questions on notice

Resolved, on the motion of Mr Williams, seconded by Mr Bassett: That the Committee note answers to questions on notice taken at public hearing of 18 June 2012 received from the following witnesses and publish them on its website:

- Mr Phil Minns, Deputy Director General, Department of Premier and Cabinet, received on 16 July 2012.
- Mr Mark I Paterson AO, Director General, NSW Trade and Investment, dated 10 July 2012.
- Dr Mary Foley, Director General, NSW Health, dated 31 July 2012.

#### ii. Correspondence

Resolved, on the motion of Mr Williams, seconded by Mr Torbay: That the Committee note the following correspondence received from agencies subject to performance audit:

- Mr Ron Woodham, Commissioner, Corrective Services NSW re: Auditor-General's Report on Home Detention, dated 30 June 2012.
- Mr Ron Woodham, Commissioner, Corrective Services NSW re: effectiveness of monitoring anklets worn by detainees, dated 25 July 2012.

- Mr Barry Buffier, Chair and CEO, Environment Protection Authority re: Auditor-General's Report on Protecting the Environment: Pollution Incidents, dated 21 June 2012.
- Mr Graeme Head, Commissioner, Public Service Commission re: Auditor-General's Report on Sick Leave, dated 11 July 2012.
- Mr Philip Gaetjens, Secretary, NSW Treasury re: Auditor-General's Report on Coal Mining Royalties, dated 3 July 2012.

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## 7. Next meeting

The Committee adjourned at 10.55am until 9.45am on Thursday 23 August 2012.

## MINUTES OF PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE (NO. 34)

Thursday 9.45 am, 20 September 2012  
Room 1043, Parliament House

### MEMBERS PRESENT

Mr O’Dea, Mr Bassett, Mr Daley, Mr Torbay and Mr Williams.

### APOLOGY

An apology was received from Dr Lee.

#### 2. Confirmation of minutes of meeting of 13 September 2012

Resolved, on the motion of Mr Torbay, seconded by Mr Williams: That the minutes of the meeting of 13 September 2012 be confirmed.

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#### 3. Report on the examination of the Auditor General's Performance Audits, September 2010 – February 2011

##### i. Performance Audit Report September 2010 –February 2011

Resolved, on the motion of Mr Torbay, seconded by Mr Williams:

- That the draft Report on the examination of the Auditor-General’s Performance Audits September 2010 – February 2011 be the report of the Committee and that it be signed by the Chair and presented to the House;
- That the Chair and Committee staff be permitted to correct stylistic, typographical and grammatical errors; and
- That the Committee notify responsible Ministers of the agencies mentioned in the report and issue a media release announcing the tabling of the report.
- That the Chair table the report in the House on Thursday 20 September 2012.

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#### 8. Next meeting

The Committee adjourned at 10.07 am until 9.45am on 16 October 2012.