NSW Government Response to Examination of Selected Auditor-General's Financial Audit Reports 2020

November 2022

NSW GOVERNMENT

Response to recommendations

Recommendation 1

The Committee recommends that the NSW Ministry of Health provides a progress report to the Committee 12 months after the Committee's report is tabled, detailing progress on the status of NSW cross-border agreements and cross-border reconciliations.

Support

NSW Ministry of Health will provide an update on cross-border reconciliations and agreements to the Committee by May 2023 (12 months after Report 8/57 was tabled).

NSW Health makes in-year provisional payments to high-flow jurisdictions based on estimated activity to ensure services for interstate patients are available.

NSW Health has made considerable progress regarding cross-border agreements and reconciliation since the Auditor General's Financial Audits on Health 2020, tabled in December 2020.

NSW Health remains committed to negotiating fair and reasonable terms for cross border activity, and to improving the patient experience for patients who reside in border regions.

Recommendation 2

The Committee recommends that the Lord Howe Island Board ensures that the Business Continuity Plan is comprehensively distributed and promoted via all communication channels to ensure that its provisions and intent are widely understood.

Support in principle

Following the appointment of the new CEO of the Lord Howe Island Board in December 2021, consultation with all key stakeholders on business continuity and emergency planning arrangements is underway to ensure provisions are appropriate and widely understood.

Recommendation 3

The Committee recommends that the Lord Howe Island Board establishes clear guidelines to review and test the Business Continuity Plan, including:

- a six-monthly checklist assessment to determine whether the objectives are being met and to update the Plan as needed;
- an annually staged emergency drill to evaluate realistic employee responses to the emergency;
- a biennial desktop review with leadership and stakeholders to update business objectives and address gaps; and
- a triennial full end-to-end recovery simulation test to measure the effectiveness of the Business Continuity Plan

Support in principle

A program of work is underway to further refine Lord Howe Island Board's business continuity arrangements to reflect its unique circumstances and to complement existing incident and emergency management response arrangements.

This work includes the establishment of guidelines to review and test business continuity arrangements to ensure business continuity and emergency management arrangements are appropriate and respond to a range of external hazards and threats across the island. The Public Accounts Committee recommendations will be considered as part of this work.

Recommendation 4

The Committee recommends that by 30 June 2022, the Department of Planning, Industry and Environment, as the lead agency, negotiates a solution to the unresolved loan repayment with Greyhound Racing NSW and the Wentworth Park Sporting Complex Crown Land Manager.

Noted

The Department of Planning and Environment is not a direct party to any loan agreement but is assisting in resolution of this matter as part of broader considerations of the future of greyhound racing at Wentworth Park.

The due date of 30 June 2022 was approximately five weeks from when the PAC report was tabled and does not take into consideration the complexity of the unresolved loan or the NSW Government's broader plans to return Wentworth Park to the community as open space.

The Department is working with all relevant parties, including NSW Office of Racing, to assist the parties to reach an outcome for the unresolved loan issue between Greyhound Racing NSW and Wentworth Park Sporting Complex Crown land manager.

While documentation has been found indicating that a loan exists, no documentation has been found confirming loan arrangements such as contract terms.

Recommendation 5

The Committee recommends that the Transport for New South Wales:

- reviews its contract management framework and assesses it against the Contract Management Guide developed by the Department of Finance;

- ensures an ongoing process is in place to collate all the contracts information from each agency within the Transport cluster; and

- centrally monitors and reports on contract compliance.

Support

Review its Contract Management Framework and assesses it against the Contract Management Guide developed by the Department of Finance;

Transport for NSW (TfNSW) embarked on a Goods and Services Procurement Harmonisation Program with the aim to standardise procurement practices across TfNSW. A key project under this program is the Contract Management Uplift which incorporates a revised Goods and Services Contract Management Framework (CMF) with associated procedures, tools, and templates. The Contract Management Framework will be deployed in November 2022 and will supersede any previous versions of Contract Management guidance across the Transport for NSW.

The revised CMF has been developed in alignment with the NSW Procurement Plan, Source & Manage Framework to ensure consistency and compliance with NSW Government Procurement Policy. The Commonwealth Department of Finance Contract Management Guide was one of the documents referenced in developing the CMF.

TfNSW have also launched the Thrive IP program with an aim to deliver better, more predictable outcomes. Workstream 6.7 of the Thrive IP program will revise the Infrastructure Commercial Framework to ensure the transition from development to delivery is supported with appropriate frameworks and tools to support the management of the contracts/ claims during delivery. In revising the Infrastructure Commercial Framework, Infrastructure & Place's Commercial services team will review the Infrastructure Commercial Framework against the Contract Management Guide to ensure compliance.

Ensures an ongoing process is in place to collate all the contracts information from each agency within the Transport cluster; and

TfNSW currently use three separate contract management systems:

- Equip/Ariba
- CM21
- PMWeb.

There is an ongoing program underway to potentially combine all in Equip/Ariba or have a separate Infrastructure system. There are also at least three eTender areas for advertising of tenders and quotes. This potentially could be consolidated under one area using the Department/Agency function within the eTender system maintained by NSW Procurement. There is a plan to replace eTender with a new system by NSW Procurement and Department of Customer Service, which may assist in providing some consolidation at a 'Department' level. They do also note the implementation of a single records management platform to centrally collect contracts and agreements. While the data program is bringing together immediate visibility, several programs

including the One Procurement program, and the Fewer, Better Systems program, are seeking to rationalise and consolidate the number of independent systems that are being used to collect contract information and manage contracts.

Centrally monitors and reports on contract compliance

A number of initiatives to monitor, report on, and ensure compliance have been implemented at TfNSW, and continue to expand and improve goods and services contract assurance procedures. These include:

- Goods and Services Contract Management Framework (to be deployed November 2022)

  The revised CMF has been developed in alignment with NSW Procurement Plan, Source & Manage Framework to ensure contract management practices at TfNSW are consistent and compliant with NSW Government Procurement Policy.

- Contract Management Training modules (to be deployed November 2022)

  The implementation of the new CMF will include ongoing Contract Management Training modules to ensure Contract Managers at TfNSW have clear understanding of best practice and compliance expectations in carrying out their duties.

- Assurance Procedures (to be deployed November 2022)

  Another element of the uplift program includes the development of a Goods and Services Contract Assurance Procedure with associated tools and templates to assist with the ongoing monitoring and assurance reviews across Transport for NSW.

  TfNSW has developed internal procedures and processes to guide the Contract & Commercial team, established in August 2021 to independently ensure compliance with the CMF. This includes regular sample testing activities across all Transport for NSW Goods and Services contracts to facilitate continuous improvement initiatives as well as targeted training in response to any behavioural trends.

- Central Contract Repository (implemented July 2022)

  The Central Contract Repository provides TfNSW with a single source of truth and visibility of all goods and services contract data across the organisation. This will facilitate accurate and meaningful reporting against Transport for NSW Contract Management obligations.

- Data Detection Program (implemented July 2022)

  The program seeks to run continuous monitoring on the central goods and services contract repository to detect non-compliance issues. The program is being delivered in a number of tranches, with an initial focus on data integrity.

Additionally, the Infrastructure Commercial Framework to be developed in Thrive IP Workstream 6.7 will have appropriate monitoring of contract compliance built into the framework.

Recommendation 6

The Committee recommends that the Transport Asset Holding Entity of New South Wales aims to achieve long-term sustainable returns for the shareholders by monitoring the annual access and licence charges to various public rail operators, and seeks additional commercial opportunities to enhance the return on investments.

Support

TAHE revised its long-range modelling to incorporate recommendations made by the Auditor-General following the FY21 financial audit. The revised, risk based financial modelling indicates that the estimated cumulative value of net profit before tax to FY2045-46 will exceed historical operating losses and revaluation changes since FY2015-16, including the $20.3 billion revaluation decrement incurred in FY2020-21. TAHE will also provide an acceptable return on equity over this period.

This financial modelling has been submitted to the Audit Office of NSW for review.

TAHE has negotiated and entered into ten-year contractual access and license fee agreements with public rail operators to underpin the financial surety of TAHE through contractual future revenue streams. These agreements are reviewed annually on a collaborative basis with the public rail operators, being Sydney Trains and NSW Trains.

TAHE continues to explore and develop commercial and property strategies to provide further returns to the NSW Government. Activities to date have and will include the sale of select parcels of surplus land no longer needed for government purposes and preparation of master plans for the renewal and revitalisation of Redfern North Eveleigh and Central precincts. These masterplans include options for major redevelopment and placemaking activities including commercial office space and retail offerings, along with affordable housing.

In addition to the Sydney metropolitan precincts, TAHE is considering commercial strategies for regional and outer-metropolitan locations.

The Board of TAHE has reviewed and approved TAHE's commercial and property strategy, which focuses on securing long-term sustainable revenue while ensuring TAHE's properties assets are strategically managed to maximise the place-making benefits for the residents of NSW.

As an asset and infrastructure owner, TAHE is well on the path to securing commercial returns for the NSW Government and the people of NSW, utilising its substantial asset base, whilst maintaining a safe and efficient rail network.

Recommendation 7

The Committee recommends that the Department of Planning, Industry and Environment develops a cybersecurity strategy, focusing on strengthening the security controls of the CrownTracker system. These controls should include:

- key detection security controls, such as implementing network and host based monitoring;
- documenting and maintaining a security risk assessment and any security breach to the system; and
- ensuring cybersecurity risk is reported and discussed in executive and audit risk committee meetings.

Support

Cybersecurity strategy for CrownTracker

The Department of Planning and Environment's Digital Information Office (DIO) provides digital technology services and direction for agencies across DPE and has developed an overarching DPE Cyber Security Strategy and Strategic Roadmap for the uplift of security across the organisation.

The Department has implemented security controls to manage security aspects such as user access management and data management within the CrownTracker application.

The Department relies on infrastructure and platform technology services (including associated security) provided by DIO to support its business operations, and has been working closely with DIO to identify and manage cyber security risks in accordance with DPE Cyber Security policies and standards for CrownTracker and other Crown Lands information systems.

Detection security controls

Since the Auditor General's 2020 financial report, DIO has established and manages a network monitoring platform and has implemented a number of new security controls across the DPE environment.

The Department will continue to work with DIO to ensure the appropriate host monitoring controls are applied to Crown Lands information systems as part of the ongoing efforts to improve cyber security across DPE.

Documenting and maintaining a security risk assessment

Recently CrownTracker and other Crown Lands applications have been assessed by DIO and identified as Crown Lands core systems. This increases the priority for serviceability and security needs of these applications. As part of this process, the Department is working with DIO to manage any risks identified and ensure alignment with DPE Cyber Security Strategies and policies.

The Department records and manages risks from or to CrownTracker and other Crown Lands information systems identified in any security assessments and breaches in the Crown Lands Customer and Systems risk register.

Reporting cybersecurity risk

At the monthly Crown Land and Local Government executive meeting there is a standing item to report and discuss audit findings and risks including cyber security risks.

DIO is currently running multiple multi-year, multi-million-dollar programs of work to uplift cyber security across DPE

Examples of enterprise-wide security controls in DPE that help protect the Crown Lands solution include:

- Monitoring controls – DPE has onboarded critical infrastructure, such as firewalls, to its centralised monitoring solution (SIEM) to monitor against external threats.

- Enterprise vulnerability management – DIO is currently implementing a multi-year vulnerability remediation program including deploying scanning tools, policies and standards and remediation activities across DPE.

- End-user awareness and training – DIO is in its second year of implementing an end-user awareness program. This includes training on common threats, regular awareness campaigns and the implementation of phishing simulations to test user knowledge.

- Privileged access management – DIO has implemented a solution that helps to monitor and manage privileged access. A project is currently underway to expand the use the solution through the enterprise.

- Cyber security risk management – DIO is currently implementing a central risk management platform designed to help track, monitor and manage cyber security risks across the organisation.

- People – DIO has invested in over 20 new cyber security roles to bolster internal cyber management capabilities.

In addition to the above, DPE is in the early stages of an Identity and Access Management program which is a multi-year project designed to onboard crown jewel applications, such as the Crown Lands systems, into a centralised identity platform. This solution will streamline the management of identities including automated onboarding and offboarding, role-based access management and user access reviews.

Recommendation 8

The Committee recommends that the Department of Planning, Industry and Environment reviews the governance arrangements for the implementation of the Land Negotiation Program to ensure effective communication between the Department and various agencies involved in Aboriginal land claims.

Support

The Department of Planning and Environment established the Land Negotiation Program (LNP) governance taskforce from October 2020 to September 2021 to implement the recommendations arising from the LNP review.

The LNP governance taskforce introduced a number of reforms that resulted in the establishment of:

- new approaches to Aboriginal Land Agreements that are now in practice in 11 sites across NSW
- the interim Secretary's review mechanism to support the resolution of issues arising during negotiations between all parties
- the Local Aboriginal Land Council (LALC) reference group.

The LALC reference group is the first Aboriginal advisory group to Crown Lands and is comprised of 10 LALC representatives all with previous experience in Aboriginal Land Agreement negotiations.

The LALC reference group is currently reviewing the Aboriginal Land Agreement negotiation processes and the Secretary's interim review mechanism.

The Department is currently supporting the Department of Premier and Cabinet to establish an interagency governance group to lead strategic reforms to the Aboriginal land claim process in alignment with recommendations made by the NSW Auditor General in the report Facilitating and administering Aboriginal land claim processes published in April 2022.

Recommendation 9

The Committee recommends that the Department of Planning, Industry and Environment provides a progress report to the Committee 12 months after the Committee's report is tabled, detailing progress on the development of the appropriate statutory reporting framework for Crown Land Managers. The progress report should contain details on the outstanding financial statements subject to audit, outstanding annual report submissions, as well as the uptake of the Crown Land Managers Governance Development Program.

Support

More than 1,000 Crown land managers (CLMs) play a critical role in the care and management of almost 8,000 Crown reserves. These are often volunteer organisations that provide a crucial connection between local communities and Crown land. Statutory land managers (SLMs) are the portion of this network that are established and governed by the Crown Land Management Act 2016.

The current financial reporting framework – requiring SLMs to produce general purpose financial statements – places significant costs on volunteer SLMs whose operations are often low risk.

The Department of Planning and Environment is exploring options to develop an appropriate and fit for purpose reporting system for statutory land managers (SLMs) in collaboration with Treasury. It will report back to the Committee in May 2023 as requested.

The Department was able to access temporary funding to provide support to some SLMs to submit general purpose financial statements in two financial years as follows:

- 2019-2020 - 8 SLMs (estimated cost of $1.12M)
- 2020-2021 - 12 SLMs (estimated cost of $1.5M).

The Department is currently considering options to continue to fund some measure of assistance to SLMs in preparing their statements. However, there is no recurrent funding stream for this assistance.

Recommendation 10

The Committee recommends that the Department of Communities and Justice includes ongoing data integrity checks, mandated as part of the business process to ensure that the data in the Victims Services system is accurate and complete.

Noted

The Department of Communities and Justice advises that processes are in place to review and remediate data quality issues.