

Our ref: [REDACTED]

Mr Greg Piper MP
Chair
Public Accounts Committee
Legislative Assembly
Parliament of New South Wales

By email: pac@parliament.nsw.gov.au

18 October 2022

Subject: Public Accounts Committee response to Questions on Notice

Dear Chair

Thank you for the Public Accounts Committee's time and questions from the hearing held on 29 September 2022, examining selected Auditor-General's Financial Audit Reports 2021.

The Department of Planning and Environment – Crown Lands appreciates the extension of time provided to respond to the questions taken on notice. The response to the questions is enclosed.

If you require any further information about the response, please contact me on [REDACTED] or on [REDACTED].

Yours sincerely,



Melanie Hawyes

Deputy Secretary
Crown Lands and Local Government

Encl: Response to Public Accounts Committee Questions on Notice

Response to Public Accounts Committee Questions on Notice

The CHAIR: Thank you for that opening statement. Just before I commence with questions, I want to state that, as we work through a series of issues that we've teased out, you may feel like you're answering questions that you've already answered. I apologise for that, if that's the case, but for the record for our purposes it's very important that we do that to get those specific answers. With that, I'll commence with the first question. **The first question is that the department previously stated that there are over half a million individual Crown land parcels in New South Wales. Is there a single digital record for each Crown land parcel and therefore over half a million individual records in the department's Crown Lands Information Database?**

MELANIE HAWYES: I might again note the challenge with digitising sometimes incredibly old parish records that date back. Sometimes they're still in parchment format, so that is an ongoing challenge for us and a work in progress. I would ask my colleague, Claudia Huertas, to speak to whether we have a quantified figure for you, but I do note that ongoing challenge and the work we've done to bring all those records into our systems. Claudia?

CLAUDIA HUERTAS: Thanks, Mel. We can quantify the number of records in there. **I couldn't specify exactly what the number is today. I can come back—we can come back—and confirm that. There are a number of records and most of the records are kept in our legacy system CLID, which is the Crown Lands Information Database.**

The CHAIR: Okay.

MELANIE HAWYES: **So we'll take on notice the figure and come back to you with a specific figure for that. I think the half a million was an estimate at the time.**

Answer

1. Number of CLID records

There are approximately half a million parcels (511,755 as of June 2022) in the cadastral database that includes roads, water and land parcels. 285,000 of these accounts are managed in the Crown Lands Information Database (CLID) for tenure, reserve, and Aboriginal land claims.

Mr DAVID LAYZELL: **The Audit Office has been reporting issues in the accuracy and completeness of the Crown Lands database since 2017. Is the number of issues identified by the Audit Office increasing or decreasing each year? Can you elaborate on the types and common causes of these issues?**

MELANIE HAWYES: Yes, thanks for the question. We have random spot checks about integrity of information. That does a percentage return rather than a set figure. **In terms of trends, we would need to take on notice specifics about whether particular types of errors are increasing or decreasing.** We are doing a lot of work to improve the governance around the way data is put into the system. There are historical errors that we fix when we find them. The cadastral information is probably the most critical and we ensure that that is correct wherever there is an error identified. I might ask my colleague Claudia to talk a little bit more about the types of errors we find and how we fix them and what we think is occurring in terms of your question, which is, is it getting better, is it stable, or is it getting worse?

CLAUDIA HUERTAS: Thanks, Mel. **Again, we will take on notice the trends since 2017,** but I can say that we are aware of the known issues and they largely relate to historic manual data entry errors from staff. They also relate to system limitations in terms of lack of integration of different systems and data. They also relate—something we have identified more recently in our reviews—to fragmented workflows. Traditionally in Crown Lands there have been numerous processes that have sat with various different teams across the organisation, and that is something we are looking to address through a functional operating model that will centralise some

of those fragmented processes and therefore improve the data quality and the data governance in terms of what goes into the system. They are generally the root causes and we are looking at introducing additional internal controls to address those.

MELANIE HAWYES: As an example—if I may, through the Chair—we do monthly data quality checks on random samples of the spatial data that we have in the system and that is largely to ensure that updates to the cadastral database are accurate. In the last 12 months, 90 per cent of these updates were accurate when sampled and, of course, we acted where we found errors or inaccuracies in the 3 per cent that came back as showing an error.

Mr DAVID LAYZELL: Am I right to say that most of the errors relate to cadastral or survey information? Is that right?

MELANIE HAWYES: Claudia, happy for you to take that.

CLAUDIA HUERTAS: I was going to say that they can vary from incorrect lot numbers being put into the system, errors in terms of the status of the land, incorrect spelling of a tenure holder's name—it could be quite a variety—right through to, yes, the footprint of a particular lot. It can range. That footprint is something we check on a monthly basis on random samples on the spatial data because our spatial data is held in the NSW Digital Cadastral Database, which is managed by the Department of Customer Service—whole of government.

Mr DAVID LAYZELL: Is it okay to take it on notice and get some information regarding the percentages of issues with the database going forward, to get a feel for where those errors are?

CLAUDIA HUERTAS: Yes, sure.

Mr DAVID LAYZELL: I will finish off with another question. Other than the Audit Office, who typically identifies errors in Crown Lands records? Are they internal department staff—so doing your own checks—or are they external users?

MELANIE HAWYES: It is both. We have our own checks and balances and peer-review systems, but they can be identified when people make a query and we can see that there is an error, or it can be identified when somebody points out that there clearly is an error in a survey or in the way a piece of land is understood. Claudia, if you want to elaborate I am happy for you to. But in answer to your question, it's a mix.

CLAUDIA HUERTAS: Yes, it is a mix and we do have internal audits that are conducted annually as well on business processes and random samples of transactions that occur.

Answer

2. Trends in accuracy and completeness of records

The number of anomalies relating to the accuracy and completeness of records has remained stable between 2017 to 2022 (no increase).

3. Errors with cadastral and survey information - percentage of issues.

Approximately 40 per cent of the issues identified are related to the accuracy of information in the cadastral database. The balance of errors relate to records kept in the CLID. A recent analysis shows that causes of the inaccuracies relate to:

- 72 per cent of errors - business process and data entry/recording issues
- 21 per cent of errors - require further analysis to determine the exact cause
- 7 per cent of errors - system capacity issues.

Mr DAVID LAYZELL: And from external inputs, who would be the agency that raises the most issues with the database? Maybe take that on notice again. That goes to that trend.

MELANIE HAWYES: We can try. Again, it is probably a mix because people have either—there is an ebb and flow of interest in working with us, depending on what somebody is trying to achieve. So there will be times when a particular agency is working with us incredibly closely because they have a number of projects occurring across the State, or we won't hear from them at all for a while. So there is a real mix there. There is a lot of interest around land claims in native title and that does sometimes generate interrogation of whether surveys are correct and how land has been surveyed in the past, or not. But it depends on what an agency is trying to achieve with us, so there will be a mix of agencies like Transport, for example; Regional NSW, in terms of some of its regional planning; and land councils. A range of stakeholders are interested in understanding what's occurring on parcels of Crown land. Councils—it is a range. I am not sure who the heaviest user is. I suspect it ebbs and flows.

Mr DAVID LAYZELL: I am interested to know who the heaviest user is and where those breakdowns are happening with the database. Thank you for that.

Answer

4. Who is the heaviest user? What agency raises the most issues regarding accuracy/completeness?

Local councils (for roads and reserves) are the heaviest users.

Most of the issues and errors are identified internally within Crown Lands, but on occasions they are reported by a local council direct to Crown Lands to rectify.

Mrs NICHOLE OVERALL: Good morning, everyone. Again, this may be one that you will need to take on notice, but are you able to give us an idea of how many records in the database were updated from 2020-2022? Do we have an idea of that?

MELANIE HAWYES: I think we would need to take that on notice. Do you mean updated because they were identified as incorrect?

Mrs NICHOLE OVERALL: Yes, updated for the reporting of an error or misinformation in relation to the record.

MELANIE HAWYES: We will take it on notice. I am not completely confident we can easily pull that out in terms of a report, but we will endeavour to do so. Claudia, is there anything you wanted to add to that? We will take on notice at least an estimate for you.

Answer

5. Records updated in the database from 2020-2022

Approximately, 800 errors were rectified between 2020 to 2022.

The CHAIR: How are issues pertaining to security of data and potential for misuse of information being managed?

MELANIE HAWYES: Now we are working very closely with the whole cluster around its cybersecurity provisions and protections. There's a range of them that have been put in place around CrownTracker but I might ask Claudia to talk you through a little bit of that at a high level, and we'll get some of the specific protections documented for the Committee on notice. But we're very cognisant of that, and we are working to

make sure that we meet standards set across the whole cluster and across government around cybersecurity and the integrity of information.

CLAUDIA HUERTAS: Thanks, Mel. We rely and work under the framework that the cluster—the digital information office provides us that cybersecurity framework and we fall within that framework. CrownTracker, CLID all go through. They've been recognised—this is actually an IT phrase—as "Crown jewels" in terms of the systems. But they need to have oversight by the department, not just the agency, for the cybersecurity requirements. At least one for CrownTracker—prior to any release we need to run the necessary checks with DIO that there are the cybersecurity requirements in place. We can come back with some more details around what this actually entails if you like.

The CHAIR: Okay. The system is stress tested, I would imagine. You would have people who are looking at that to make sure that it has integrity there for its cybersecurity. It's not specific to the report we were dealing with, but I think it's really important. If you could take that on notice—that there is interest in that—and come back and provide us with any further information on that, that would be appreciated.

Answer

6. Issues of security of data and stress testing

Access privileges are granted based on user classification, type of roles and delegations. Access is monitored on a regular basis and can be revoked immediately if and when required e.g. when staff leave the organisation or change roles.

The Department users and administrators use multi factor authentication. This requires users to present two or more pieces of evidence to authenticate their identity prior to logging onto the system.

In addition, Crown Lands systems has implemented data integrity checks to ensure that data is entered in a valid format.

All new systems are required to undergo rigorous testing including stress testing by the Department of Planning and Environment - Digital Information Office (DIO) prior to any approval to go-live.

7. Integrity for cybersecurity

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

DPE has implemented security controls to manage security aspects such as user access management and data management.

DPE relies on infrastructure and platform technology services (including associated security and stress testing) 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.

Detection security controls

DIO has established and manages a network monitoring platform and has implemented a number of new security controls across the DPE environment.

DPE 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.

Mr RAY WILLIAMS: Is the current policy to continue to dispose of those perpetual leases by virtue of selling those back to landholders, or even selling them on the open market?

MELANIE HAWYES: There is a legislative provision that was built into the Act to permit that, and there is a process to go through to do that. It has certain limitations. It can only be done in certain circumstances. We can provide the Committee with the list—the legislative provisions that govern where it is permissible to convert a lease. In terms of whether that will continue, we are preparing for a statutory review and that would be one of the questions considered in terms of looking at refreshing the legislation from 2023. So, that was the policy and legal setting at the time and it would be a matter for government, through the consultative process of refreshing the Act, to determine whether that setting will continue into the future.

Mr RAY WILLIAMS: So, given that's the case, is the same policy in place whereby those perpetual leases would have been for sale at a vastly reduced rate of 3 per cent of the current market value?

MELANIE HAWYES: This has been the subject of some discussion in a number of Committee hearings. The 3 per cent reflects the residual value of that land to the State, given that it is a perpetual lease. There is information I can provide to the Committee more specifically on notice around how that was put in place in the legislation, but it reflects a residual value given that a perpetual lease, by its very name, has provided ownership and certainty to an individual in perpetuity.

Mr RAY WILLIAMS: With that said—and perhaps you would have to take this on notice—could I request that the Committee be provided with information regarding how many current perpetual leases of Crown land are currently available, and how many perpetual leases have been sold for that reduced rate of 3 per cent of market value? Could I ascertain also what the amount is that was raised from the sale of those particular properties and perhaps what the market rate was at the time that those properties were sold? I'm sorry if that's multifaceted.

MELANIE HAWYES: That's okay.

Mr RAY WILLIAMS: But, ultimately, I'm happy for you to take it away on notice and for that information to come back to the Committee.

MELANIE HAWYES: Yes, absolutely. It reflects, again, the history of the portfolio. Those leases were established to encourage, at the time, pastoral grazing and agricultural productivity in the western parts of the State. Once a lease has been made in perpetuity, the provision for conversion reflected again that commitment to productivity in those parts of the State. It's not necessarily a market decision. It reflects the history of the portfolio and a longstanding practice to provide for agricultural productivity and settlement in those parts of the State. Those provisions to allow that conversion to occur are in legislation and any decision to change that—it's appropriate that that's looked at through a statutory review, which is due and forthcoming.

Mr RAY WILLIAMS: Yes, okay. Given you've gone to those lengths to describe that, how do you actually ascertain whether or not the agricultural value is going to be continued in relation to those particular areas? Or is it just a landowner seeking a larger landholding for a vastly reduced price?

MELANIE HAWYES: As I said, there are restrictions or limitations as to which leases are able to be converted, but it was set in legislation for a reason. As I said previously, a statutory review is a time for government to consider whether it wants to continue that policy setting. The Act puts it in place. We implement it. There is some uptake. It's not wholesale uptake. I can get you those figures on notice about how many people have opted to pursue conversion and the circumstances where conversion is permissible. In some circumstances, it's not permissible. I don't have those stats to hand but we can certainly get those for you.

Mr RAY WILLIAMS: And also, in line with the question, could I get the value of what that land was purchased for and what the market value was of that land at the time, and how many of those particular sales have taken place since there was a change in that reflective policy?

MELANIE HAWYES: Yes, absolutely.

The CHAIR: So we can take that as a given—that you've agreed to take those questions on notice—but obviously that will have to reflect the context of your explanation as to the legislative provisions. Thank you for that.

Answer

8. Legislative provisions

The purchase price to convert a perpetual lease to freehold title is set out in Schedule 4 of the *Crown Land Management Act 2016*.

9. Calculation of purchase price

The process to determine a purchase price for the conversion of perpetual leases prior to the commencement of the *Crown Land Management Act 2016* on 19 March 2018 (for the Western Division) and 1 July 2018 (for other perpetual leases) was set out in the now repealed *Crown Lands Act 1989*, *Crown Lands (Continued Tenures Act) 1989* and Regulation, the *Western Lands Act 1901*, the *Wentworth Irrigation Act 1890*, the *Hay Irrigation Act 1902*, and the *Crown Lands Consolidation Act 1919*.

There are varying provisions in the abovementioned legislation that were enacted over the last century which enabled the conversion of perpetual leases to freehold, often at concessional prices. The purchase price for many of the eligible perpetual leases during the 19th century was at an amount equivalent to the capital value of the land at the date the lease was first granted. This purchase price was adjusted by CPI, not by any change in the value of the land.

10. Purchase price at 3 per cent of the value

In 2004, an independent report was prepared that considered the State's remaining equity or interest in perpetual leases for the Eastern and Central Divisions of Crown land. This found that the State's interest in the land, represented 3 per cent of the unimproved value of the land. This assessment reflected the limited nature of the State's residual interest in the land.

The 3 per cent figure was determined having regard to the perpetual nature of the leases, noting that they cannot expire, and the State cannot regain ownership of the leases except by a forfeiture action for non-compliance of lease conditions or by way of compulsory acquisition.

In addition, the State's financial interest in perpetual Western Lands Leases is limited to lease rent. These leases do not have a rent linked to the market, rather the rent is bound by the statute or lease instrument. The State's remaining equity is therefore a very small proportion of the overall land value.

The *Crown Lands Legislation Amendment (Budget) Act 2004* amended the *Crown Lands (Continued Tenures Act) 1989*. This amendment clarified that where applicable, the

purchase price would be either 3 per cent of the land value, or the notified Capital Value of the land as at the date the lease was first granted (as adjusted by CPI), with the purchase price being the lesser of the two.

11. Summary of lease conversions

a. Number of leases currently available

Perpetual leases currently available are those leases whereby the leaseholder has not made an application with the Department to convert their leasehold to freehold.

For the Central/Eastern Division this is 107 leases and for the Western Division it is 5,051 leases.

b. Number of leases converted for 3 per cent of the land or market value

Area	How many Leases have been converted at 3% of Land or Market Value	Purchase Price Amount at 3%	Land/Market Value of the Leases Converted
Central/Eastern Division	36	\$229,147	\$7,638,205
Western Division	459	\$8,929,124	\$300,110,835
Totals	495	\$9,158,271	\$307,749,040

Note: the majority of the Western Lands leases have utilised land value rather than market value to calculate the purchase price as per Schedule 4, Part 4 9 (1) (b)

12. Retention of agricultural values

The use of land for ongoing agricultural pursuits following the conversion to freehold is a matter for the landholder and is governed by the various planning controls that exist in NSW.

13. Is the landowner seeking a larger landholding for a reduced price?

A perpetual leaseholder can only convert and purchase the lease they legally hold. If a leaseholder wanted to increase the size of their property by acquiring land they do not have a perpetual lease over, they would be required to purchase additional land through the open market processes like auction or private treaty sales.

14. How many perpetual leaseholders have applied/opted to convert?

Area	Number of conversion applications received
Central/Eastern Division since 1 July 2018	113
Western Division since 19 March 2018	563
Total	676

Note: the number of applications includes those approved, refused and pending

15. Circumstances where conversion is permissible and not permissible

Leaseholders are provided with a right to apply and must satisfy legislative requirements in the *Crown Land Management Act 2016* before a conversion application can be determined and approved. While the majority of conversion applications are permissible there are some applications refused by the Department as they do not satisfy legislative requirements.

In the Western Division, perpetual Western Lands leases must also satisfy the eligibility criteria outlined in section 5.9 of the *Crown Land Management Act 2016*. This criterion includes the capability of the soil and whether the lease is located in an urban area, required for urban expansion or will contribute to the economic growth of a region or is rural land and used predominantly for residential, business, industrial or community purposes.

There are approximately 1,700 Western Lands leasehold properties in the Western Division of NSW. Only about a third of these properties are considered eligible to apply for conversion under the current section 5.9 eligibility criteria provisions.

As of 30 September 2022, 563 applications for Western Lands leasehold properties have been received, with 337 applications approved and 8 applications refused due to ineligibility. The remainder are undetermined undergoing assessment.

Mr DAVID LAYZELL: Just one final question, just so I get a feel for—in that digitisation process, I don't want to put a percentage on it, but how far through that process are you?

MELANIE HAWYES: I would probably take that on notice so that we can give you not just an off-the-cuff response but a sense of what we've achieved over the last few years and where we are at, if that's okay?

Mr DAVID LAYZELL: That's perfectly fine. I'm just trying to get a feel. It's not to the actual number. I guess it's, you know, 50 per cent or that sort of thing.

Answer

16. The digitisation process and what has been achieved over the past few years.

In 2019 the Department commenced a project to photograph and digitise the roads control files and guard books. These records contain extracts of government gazette notices in relation to activity on Crown reserves. These documents, together with reserve and other cards, survey plans, reserve books and other miscellaneous documents were digitised and sent to State Archives. The digitisation process improved accessibility and preserved information contained in fragile and aging documents. This project was completed in 2021.

The same process is being conducted to digitise records from the Crown Lands Dubbo office and this is expected to be finalised by June 2024.

Other digitisation initiatives include:

- Rebuild of the Crown Lands website, which was launched in August 2022.
- Online forms project, which commenced in August 2022. This is the conversion of paper based application forms to online forms. This is a multi-phased project expected to reduce the risk of data entry errors, improve data quality and minimise the receipt of incomplete applications.
- Ongoing CrownTracker and CLID system enhancements to improve data entry controls.
- The Crown Lands Data Strategy Action Plan plan is due to be completed by November 2022. It will identify a series of actions relating to:
 - Data governance
 - Data quality and validation
 - Data accessibility and outcomes focussed initiatives
 - Capability and culture