

Questions on notice

1. Timetable for introduction of Lambert Report recommendations concerning the Auditor-General and the PAC

Reference: Transcript of Treasury's evidence to the Inquiry on 21 June 2013 - pages 5 & 6.

Treasury's letter to the PAC's Chair dated 28 June 2012 set out various potential amendments to legislation concerning the Auditor-General (AG) and the PAC. Most of those potential amendments were originally proposed in the 2011 Lambert Report. On 2 July 2012, Treasury officers discussed those amendments with the PAC's Chair.

One of those potential amendments was to increase the maximum interval permitted between reviews of the Audit Office (AO) from three years to four years. This proposed amendment was enacted as part of the *Statute Law (Miscellaneous Provisions) Act (No 2) 2012*.

Another of those potential amendments was to increase the term of Auditors-General from seven to eight years. This potential amendment was enacted as part of the *Statute Law (Miscellaneous Provisions) Act 2013*.

Treasury prepared a Cabinet Minute for the remaining potential amendments. Treasurer's Office is currently reviewing that Minute.

2. Should the AG have external audit oversight of local governments, Aboriginal land councils and universities?

Reference: Transcript of Treasury's evidence to the Inquiry on 21 June 2013 – page 7.

Local Government

Section 422 of the *Local Government Act 1993* (LGA) requires that each local government appoint its own auditor. The Minister for Local Government is responsible for the LGA.

Treasury understands that:

- Auditors-General audit local government in some jurisdictions, including Victoria, and
- the Victorian Auditor-General's Office outsources many of its local government audits to private firms.

In March 2013, AO staff advised that the AO is participating in an inter-jurisdictional review of local government audit arrangements. At the conclusion of that review, the AO will discuss its findings with Treasury. Treasury will then consider the AO's findings and examine whether extending the AO's role to local government would be more cost effective or provide greater accountability than current practice.

Extension of the AG's role to local government would raise value for money considerations. As part of any such review, Treasury could consider the effect of such a change on the private firms currently performing those audits.

As an alternative, the Minister for Local Government could be given power to appoint each local governments' auditor. This alternative would result in consistency with the *Commonwealth Corporations Act 2001* requirements for public company auditors. Under those requirements, shareholders commonly appoint public company auditors at annual general meetings. As a result, those public company auditors are independent from the directors and managers who they audit. Similarly, empowering the Minister for Local Government to appoint local government auditors would create that same independence between each local government's councillors and management and that local government's auditors. This alternative would require amendments to LGA section 422.

As part of this alternative, the Minister for Local Government could establish a register of approved auditors and appoint those auditors to particular councils, possibly by rotation. The Minister could delegate power for maintaining the register and appointing auditors to the Division of Local Government within the Department of Premier and Cabinet.

Aboriginal Land Councils

The AG already audits the NSW Aboriginal Land Council (NSWALC) because NSWALC is listed as a statutory body in PFAA Schedule 2.

Section 50 of the *Aboriginal Land Rights Act 1983* (ALRA) constitutes Local Aboriginal Land Councils (LALCs). There are currently 119 LALCs spread across NSW. These LALCs are generally very small entities. ALRA section 153 requires that NSWALC appoint auditors for these 119 LALCs.

In December 2011, the Minister for Aboriginal Affairs appointed a Working Group to review the ALRA. The Working Group consulted with various stakeholders including LALCs and the AG. The Working Group recommended a relatively minor amendment to ALRA section 153 requiring LALCs to appoint an auditor from a "list of auditors kept by NSWALC".

The AG has never asked Treasury for authority to audit LALCs.

Universities

The AG audits NSW universities because they are listed as statutory bodies in PFAA Schedule 2. Universities were originally listed as statutory bodies and made subject to audit by the AG because they were:

- established under NSW legislation, and
- largely funded by the NSW Government.

However, in recent times, the Commonwealth Government has provided the vast majority of Government funding to universities. In 2011, the Vice-Chancellors advised that universities "on average rely on just 30% of their base funding from the Commonwealth Government, and 1% or less from the State Government". In addition, the NSW Government does not control NSW universities and does not recognise their financial results as part of the NSW Government Consolidated Financial Statements. Further, PFAA section 9(4) prohibits the Treasurer from issuing directions in respect of NSW universities.

In 2011, the NSW Vice-Chancellors' Committee suggested that NSW universities could reduce their costs if they were permitted to appoint private sector auditors through a contestable process. In response, the AG and the Vice-Chancellors agreed that the AG would contract a private accounting firm to audit one NSW university on the AG's behalf. The

Treasurer supported this agreement because it permitted benchmarking of AO performance against the performance of a private sector firm without removing the AG's authority to audit universities. Accordingly, the AG appointed a private firm to undertake the 2012 Newcastle University audit on the AG's behalf. The AG can advise on the results of that benchmarking and any response he received from the Vice-Chancellors.

Because universities receive over 30% of their base funding from the Commonwealth Government, Treasury sees some logic in NSW universities being subject to public sector reporting requirements and audit by an Auditor-General. Accordingly, as an alternative to current arrangements, the PAC could consider whether all public universities in Australia should be subject to both:

- Commonwealth Government financial reporting requirements, and
- audit by the Commonwealth Auditor-General, who has the power to contract those audits to private sector firms.

This would result in all public universities in Australia being subject to the same reporting requirements and the same auditor. However, this would require the agreement of the Commonwealth, State and Territory Governments and amendments to legislation in each jurisdiction.