

**EXAMINATION OF THE AUDITOR-GENERAL'S  
PERFORMANCE AUDIT REPORTS FEBRUARY 2016  
– SEPTEMBER 2016**

**Organisation:** Department of Industry

**Name:** Mr Simon Draper

**Date Received:** 16 October 2017



## Department of Industry

Office of the Secretary

DOC17/205592

Your Reference: File Ref: D17/23570

Mr Bruce Notley-Smith MP  
Chair, Public Accounts Committee  
Legislative Assembly  
Parliament of New South Wales  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Notley-Smith,

### **Auditor-General's performance audit report – Sale and Lease of Crown Land**

I write in response to your letter of 18 August 2017 on behalf of the Public Accounts Committee requesting that the department provide the Committee with a submission outlining the department's response to the Auditor-General's report *Sale and Lease of Crown Land*.

The Auditor-General's report made six recommendations for Department of Industry – Crown Lands to address. The recommendations were all accepted and significant progress has been made for each recommendation.

The six recommendations and their parts are addressed through eleven actions. Attachment A provides further detail on the status of actions to address the Auditor-General's recommendations.

Since 2012 there has been an intense effort to modernise Crown land administration. This has been informed by the Crown Land Review and White Paper, the Auditor-General's Performance Audit report, and the Parliamentary Inquiry into Crown Land. The Government has passed the *Crown Land Management Act 2016* (the Act) to provide a new framework for this important work.

The response to the Auditor-General's recommendations has been informed by the outcomes of the Parliamentary Inquiry into Crown Land, and significantly influenced by the need for the response to integrate with Government's implementation of the Act.

Delivery timing of some recommendations has been extended and response actions reframed to align with implementation of the Act which is due to commence in early 2018. Aligning delivery of the Auditor-General's recommendations with implementation of the new Act will deliver best outcomes in terms of policies, practice and engagement.

Thank you for the opportunity to provide a response and to update the Committee with our progress in responding to and implementing the recommendations of the performance audit. Should your officials wish to discuss the submission further, please contact Tim Holden, Acting Deputy Secretary, Crown Lands and Water Division, on 02 9934 0620 or email [tim.holden@industry.nsw.gov.au](mailto:tim.holden@industry.nsw.gov.au)

Yours sincerely

Simon Draper  
Acting Secretary

## IMPLEMENTATION OF RECOMMENDATIONS

Department of Industry

Sale and Lease of Crown Land

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DUE DATE	STATUS (completed, on track, delayed) and COMMENT	RESPONSIBILITY (Section of agency responsible for implementation)
1a. Develop a risk-based approach (considering characteristics including location, value and land use) to identify leases which: <ul style="list-style-type: none"> <li>do not comply with Department policy;</li> <li>do not have the correct market value rent, rebates, and waivers applied;</li> <li>are not being used for the permitted purpose;</li> <li>have aged debt that is not being actively managed.</li> </ul>	Accepted	Develop a plan to address Crown land commercial leasing policy compliance for issues identified and develop targets for outcomes by March 2017	March 2017	<b>Completed</b> A risk-based approach that identifies high, medium and low risk leases has been developed and documented. This program identifies leases which potentially pose risks and the risk levels. This information is used to plan and implement an annual audit program for assessment and appropriate treatment for: <ul style="list-style-type: none"> <li>compliance against policy and lease term and conditions;</li> <li>establishing and applying market value, rents, rebates; and</li> <li>managing debt levels.</li> </ul> The framework is consistent with the Department of Industry Enterprise Risk Management framework and the principles of AS/NZS ISO 3100:2009 Risk Management.	<b>Crown Lands and Water</b>



ATTACHMENT A

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DUE DATE	STATUS  (completed, on track, delayed) and COMMENT  as at 22 September 2017	RESPONSIBILITY  (Section of agency responsible for implementation)
1b. Develop a plan to address issues identified and include targets for this in its 2017-18 business plan	Accepted	Include targets in the Department of Industry Business Plan 2017-18	March 2017	<b>Completed</b> The Tenure Audit Program is based on the Crown land lease risk management framework, and has been developed for the Crown land lease portfolio. Annual targets for audits have been included in the 2017/18 Business Plan for Crown Lands.	<b>Crown Lands and Water</b>
2 Clarify the criteria that are used to justify direct negotiations in its direct negotiation policy and consult with stakeholders likely to be affected by any changes	Accepted	Review the Direct Negotiation Policy and clarify criteria through consultation with stakeholders by March 2017	March 2017	<b>Substantial progress but not yet completed</b> The Direct Negotiation Policy (March 2016) has been reviewed and draft guidelines prepared to clarify criteria used to assess proposals for direct negotiations for the sale and lease of Crown land. ICAC, Office of Small Business and key stakeholder associations have been consulted (Sept 2016 and June 2017). The Direct Negotiation policy and associated guidelines will be finalised and integrated into the policy framework for the commencement of the new legislation in early 2018. <b>Revised completion date: April 2018</b>	<b>Crown Lands and Water</b>



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RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DUE DATE	STATUS  (completed, on track, delayed) and COMMENT  as at 22 September 2017	RESPONSIBILITY  (Section of agency responsible for implementation)
3  Improve consultation with stakeholders to provide opportunities for involvement in decision making about Crown land sales and leases, especially in cases where a change to the way the land is used is proposed.	Accepted	Prepare a Stakeholder Communication and Engagement Strategy and program by July 2017	July 2017	<b>Substantial progress but not yet completed</b>  A draft of the Community and Engagement Strategy (CES) for Crown land, as required under the new <i>Crown Land Management Act 2016</i> has been prepared.  The CES will be released for public exhibition and consultation in October 2017 and must be approved by the Minister for Lands & Forestry prior to commencement of the Act in early 2018.  The CES will apply to sales and leases of Crown land and provide increased and improved stakeholder involvement in decision-making about Crown land sales and leases, especially where a change to the way the land is used is proposed.  <b>Revised completion date: April 2018</b>	<b>Crown Lands and Water</b>
4  Include meaningful and specific performance measures that drive positive environmental and social outcomes in its future business plans and clarify accountability	Accepted	Develop social and environmental performance measures for business plans with clear accountabilities by July 2017	July 2017	<b>Completed</b>  Social, environmental, economic and financial performance measures with accountabilities have been included in the 2017/18 Business Plan for Crown Land.  NB: Work to be completed in early 2018 will refine and improve the measurement	<b>Crown Lands and Water</b>



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for achieving these outcomes				of environmental, social and community value of Crown land and will provide triple bottom line performance measures to drive social and environmental outcomes for 2018/19 and future business plans.	
5a. Improve the support provided to staff to make good decisions by: producing simplified and consolidated operational policies, guidelines and procedures for processing sales and leases.	Accepted	Develop a program to produce operational policies, guidelines and procedures, including an evaluation program by December 2017.	December 2017	<b>Substantial progress but not yet completed</b>  A program to produce priority policy, guidelines and procedures, including an evaluation program has been developed. Draft policy, guidelines and processes have been prepared for consultation. Finalisation and implementation of operational policies, guidelines and procedures for sales and leases is aligned with commencement of the new legislation.  <b>Revised completion date: April 2018</b>	<b>Crown Lands and Water</b>
5b. Improve the support provided to staff to make good decisions by: continuing to provide regular training for staff in better decision-	Accepted	Develop and deliver a Commercial Sale and Lease training program by December 2017.	December 2017	<b>On track</b>  Delivery of a sale and lease training program is on track for delivery by the due date, and will be integrated into delivery of broader training associated with the implementation of the new legislation.	<b>Crown Lands and Water</b>



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making, ethical behaviour, ICAC direct negotiation guidelines, and delegations				Crown Lands manages a program of regular and ongoing training for staff in better decision-making, administrative law, cultural awareness, ethical behaviour, ICAC/ANZOG courses to ensure decisions under delegation for all Crown land dealings are consistent and compliant.	
5c. Improve the support provided to staff to make good decisions by: implementing a regular risk-based review of compliance with policies	Accepted	Commence a Triennial policy compliance program for policy compliance and lease conditions by December 2017	December 2017	<b>Completed</b>  The risk based approach developed and implemented at recommendation 1b above operates on a 3 year cycle and will continue to enable the department to monitor lease compliance against a suite of policies for land allocation, market access, rent values, rebates and waivers, delegations and rent redeterminations. All policies, guidelines and processes that accompany the commencement of the Act will have triennial review schedules and evaluation. Results of the triennial reviews will be reported to DoI Audit and Risk Committee.	<b>Crown Lands and Water</b>
6a. Improve transparency of decisions by:	Accepted	Develop a Crown Lands Commercial	December 2017	<b>Delayed</b>  Publication of policy, processes and	<b>Crown Lands and Water</b>



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publishing policies, processes and expected processing times for Crown land sales and leases		Sales and Leasing web-page or portal for publication of sales and commercial leasing information by December 2017.		expected processing times is aligned to be delivered as part of implementation of the new legislation.  A program to produce priority policy, guidelines and procedures, including an evaluation program has been developed and is progressing as part of the new legislation implementation program.  <b>Revised due date: April 2018</b>	
6b. Improve transparency of decisions by:  publishing information about upcoming and completed Crown land sales and leases	Accepted	Develop a Crown Lands Commercial Sales and Leasing web-page or portal for publication of sales and commercial leasing information by December 2017.	December 2017	<b>On Track</b>  The Department is developing sales and leasing web pages to publish public information about completed Crown land sales and leases.  Upcoming sales and leasing information will commence with the implementation of the Community Engagement Strategy (CES) in early 2018.  The CES will provide for improved and increased opportunities for community and stakeholder involvement in decision- making around sales and leases.	<b>Crown Lands and Water</b>
6c. Improve transparency of decisions by:	Accepted	Include relevant outcomes and	December 2017	<b>On Track</b>  The Department is developing sales and	<b>Crown Lands and Water</b>



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RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DUE DATE	STATUS  (completed, on track, delayed) and COMMENT  as at 22 September 2017	RESPONSIBILITY  (Section of agency responsible for implementation)
publishing quarterly reports on key Crown land sale and lease data, such as the number and value of leases and sales and the number directly negotiated		activities in Business Plan and Annual Report publication for sales and commercial leasing information by December 2017.		Leasing web pages to publish quarterly reports on key Crown land sale and lease data, including the number and value of leases and sales and the number allocated through Expression of Interest or directly negotiated.  Access to information and quarterly reporting will continue as will inclusion in future business plans and Annual Reports. The Community Engagement Strategy which is due in early 2018 will integrate information and reporting into the processes and outcomes of the CES.	