

**REPORT OF PROCEEDINGS BEFORE**

**PUBLIC ACCOUNTS COMMITTEE**

**EXAMINATION OF THE AUDITOR-GENERAL'S  
PERFORMANCE AUDITS SEPTEMBER 2013—JULY 2014**

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**At Sydney on Monday, 9 November 2015**

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**The Committee met at 9.30 a.m.**

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**PRESENT**

Mr B. N. Notley-Smith (Chair)

Mr S. B. Bromhead

Mr L. J. Evans

Mr G. M. Piper

Mr M. O. Taylor

**CHAIR:** Good morning and thank you for attending this Public Accounts Committee hearing. I declare the hearing open. Today we will be taking evidence in relation to selected Auditor-General's performance audits from September 2013 to July 2014. The four performance audits that will be inquired into today will allow the Committee to continue its regular process of audit examinations, temporarily halted by the election held earlier this year. We will commence with the performance audit into the management of casual teachers. That will be followed later this morning with the examination of three further audits.

**PETER RIORDAN**, Deputy Secretary, Corporate Services, Department of Education and Communities, and

**TONY WHITFIELD**, Acting Auditor-General, Audit Office of New South Wales, sworn and examined:

**KATHRINA LO**, Assistant Auditor-General—Performance Audit, Audit Office of New South Wales, affirmed and examined:

**CHAIR:** Mr Riordan, before we proceed do you have any questions concerning the procedural information sent to you in relation to witnesses and the hearing process?

**Mr RIORDAN:** No, I do not.

**CHAIR:** Before we commence with questions would you like to make a brief opening statement?

**Mr RIORDAN:** Thank you. The audit was conducted back in 2013. Since that time the department has moved to implement all of the recommendations provided by the Audit Office of New South Wales. I am pleased to say that most of those have been completed or are in the process of being completed.

**CHAIR:** Do New South Wales schools now have ready access to casual teachers when they are required, and what is the impact on schools that are unable to access casual teachers?

**Mr RIORDAN:** There is a combination of things that schools go through in order to obtain a casual teacher. CasualDirect is the department's call centre service. It services between 8 and 9 per cent of casual teachers supplied across the State. The vast bulk of casuals are appointed directly by schools from lists that they maintain themselves. Our schools regularly look to link up with recently graduated teachers or teachers on the employment list who are awaiting appointment in order to source their casual needs. That is by far and away the largest proportion. Almost 90 per cent of schools engage casuals directly.

There are some schemes in place that assist other schools in certain geographic areas. We have what is known as the Rural Area Relief Scheme, which identifies certain schools in rural and remote areas where they have difficulty obtaining a supply of casual labour. That is predominantly because there are no teachers who are awaiting employment living in those locations, or there is not many of them. We will engage some temporary teachers on an ongoing basis in order to facilitate the placement in those particular locations.

We also operate the Local Area Relief Scheme in some staffing areas in south-west Sydney for the same reason. We engage a small number of temporary teachers in order to support those schools with day-to-day casual relief requirements. The second part of the question relates to what is the impact. The principals are responsible for managing the schools and they coordinate how classes will run on any particular day. Most times a casual teacher can be engaged for the course of the day. There are some times where that cannot be done and teachers in the school will work out how best to accommodate the needs of students during the course of that day.

**CHAIR:** You and your department indicated that there is monthly reporting to identify schools experiencing low success rates in accessing casual teachers. How is the department using the monthly reporting in schools to more readily access casual teachers?

**Mr RIORDAN:** We put that in place as a consequence of the recommendations to ensure that we had a good idea of what was happening out in our schools. We use the reporting to identify those schools that regularly have difficulty obtaining casuals. There are not many schools in that category. There are some in rural New South Wales, and that is where schemes such as the rural relief scheme come into play to ensure there are some temporary teachers available to cover those needs as and when they arise.

**Mr MARK TAYLOR:** The department indicated that it will work with a sample of schools to refine the existing process for providing feedback on the performance of casual teachers. Can you take us through the importance the department places on implementing this in a more extensive and timely fashion?

**Mr RIORDAN:** This is probably one of the more vexed areas that arose as a consequence of the audit report. Casuals can be in schools for a day. They might only do one day at a particular school; they could do longer periods of time; they could be regular casuals in that particular school and come back various times over

the course of a term or longer. But it does present difficulties for principals in terms of how they assess the performance of that casual and what they do with that information. We have looked at how we can improve that. I think when we did a snapshot we found that only 318 schools out of 6,300 casual engagements had actually filled in the form we had provided for schools to give feedback to the department in order to ensure that we can monitor the performance of particular casuals.

We are working very closely with the Primary Principals' Association and the Secondary Principals' Council. They are the peak professional groups covering our school principals. They are school principals themselves. We work very closely with them on these types of issues to come up with solutions that best meet the needs of schools. There is little point in the department sitting there as a bureaucracy and saying that we will decide how this is going to be done. We do work very well with those two principal groups.

We are about to identify a sample of a number of schools to work directly with to ascertain how they believe we can best monitor the performance of casuals working in our schools. These are really the short-term casuals. If they do any length of time the principal tends to work out pretty quickly whether they have got the goods or not. It is really those ones who work a day here and a day there that tend to throw up the most challenging issues for us. The response is just like industry generally: if a casual fails to measure up then the school will identify that person as not to be re-employed at the school. That could be situational—that is, the person did not understand the context of the school and did not perform very well. We do not bump people off the casual list because they get one report back. But where a series of reports come back then we tend to look at that more closely.

**CHAIR:** You could be a serial underperformer and jump from school to school and escape any sort of monitoring?

**Mr RIORDAN:** If there is no feedback from the school about the performance of that person other than to say, "We don't want them back", it becomes quite challenging to manage that particular person. You have to remember that these are people who have been through university and have got an education. The vast bulk of them have been new scheme teachers and are going through the accreditation process that was put in place under the old Institute of Teachers Act some time ago. We are not talking about people who have no skills; they may well just need more experience, more development. It is not always easy to get that when you one day take over a particular teacher's class for the day and try to manage it as best you can. The casuals are an integral part of our overall workforce; they are an essential component to ensure that we do have qualified teachers in front of almost every class—there are occasions when we do have to merge a few classes, but almost every class—and without them we would have great difficulty in maintaining the standard of education that we currently do.

**Mr LEE EVANS:** Just on the competencies of casual teachers, if there is a casual teacher who is maybe one of these people who are not invited back—that might be the best way to describe it—is there any system in place to review what they are missing or if there is a gap in their education—maybe an update? Is there something that can improve them so that they can hopefully in the future get a permanent position?

**Mr RIORDAN:** Where a teacher gets rejected from five different schools—and that might seem like a lot—it gets referred to our employee performance and conduct area and their task is to then identify what those issues might be and whether there is some further support or training that might be available. Since the audit report we have upped the ante in terms of the online programs and training that is available to our workforce including our casual teachers. We provide an enormous amount of online support and programs and courses and units to enable particularly our beginning teachers—which includes our casual teachers—to go in and look at resources that will help them build their skills.

Things have moved along in the last two years to try and ensure that people do have access to some support and do have access to the latest education and training to ensure that when they do arrive at a school they understand the context in which we are now operating.

**Mr GREG PIPER:** Just following up on that, Mr Riordan, I think you specifically said that a casual teacher who has been moved on or has been rejected from five different schools would trigger a review.

**Mr RIORDAN:** Yes.

**Mr GREG PIPER:** Would that include going back and interviewing the principals or deputy principals or the relevant teachers from those schools that rejected that casual teacher to try to ascertain what the problems were that were identified by that school?

**Mr RIORDAN:** I am not sure of the exact process that is followed but it does include a review of what has actually happened. Whether that is material from the school by way of asking them to complete the survey form, on the feedback or some other mechanism, I am not sure.

**CHAIR:** With casual teachers across the board there are obviously different pay rates according to seniority and experience.

**Mr RIORDAN:** In the future there will be two levels of pay rates for a casual. At the moment they move between what is known as step 5 and step 8 of the incremental scale. That is currently a 13-step scale for our temporary and permanent teachers but it is limited to step 8. Off the top of my head—I could get the salary figures for you—it ranges from about the mid-fifties up to about \$70,000 full-time equivalent.

**CHAIR:** I was just wondering whether there is a disincentive to hire more expensive ones.

**Mr RIORDAN:** No, I do not believe there is. The vast bulk of schools receive an amount in their budgets every year to cover casual relief. It is in the school's interests, of course, to have good-quality, experienced casuals, and we have had some staff who have worked as casuals for many years as they seek full-time employment or permanent employment somewhere in the system.

**CHAIR:** Of the 147 casual teachers reported by the Auditor-General as being excluded from schools in 2012 how many of those were employed on temporary blocks for a minimum of one term and, therefore, subject to the department's new performance management review process?

**Mr RIORDAN:** I would have to take that on notice.

**Mr STEPHEN BROMHEAD:** In country areas, particularly on the coast, the system was that if a headmaster had a vacancy, if he chose someone as a full-time teacher at the school he would have to take the next person on the list, and because that person may not be a good performer he would not put on permanent employees but use casuals that he thought were more suitable. With the changes that have been made by the Government as far as allowing the principals more flexibility, are you seeing any difference?

**Mr RIORDAN:** Yes, absolutely. Certainly over the last few years we have significantly increased the opportunity for schools to select their own staff. We still have an obligation to some people over transfers where the teaching numbers in the school drop because of a decline in enrolments or we have an incentive transfer scheme that allows people to go out into the more remote and isolated locations and then come back into locations closer to the coast usually. But with the increase in the local selection what we have found is that quite often—not 100 per cent, but quite often—the person selected to fill a vacancy in the school will be a person who has worked in that school previously as a casual or temporary employee. So certainly principals are appreciating the opportunity to be more discerning in who they engage in their school as opposed to the old arrangement where we just pulled someone off the top of the list regardless of how recently they may have worked in the school.

**Mr STEPHEN BROMHEAD:** Are you finding now that there are people who are on top of the list that are not getting positions as quickly as they would have expected?

**Mr RIORDAN:** The reality is that we receive letters from people asking when they are going to get employment; they write to the Minister on a not infrequent basis. The reality is that we have in place arrangements that exist in most other industries now where people need to apply for a job and a merit selection process will be undertaken to appoint the person for the job. A principal does have the option of selecting from a pool of candidates on the list. There is no more an occasion where someone who is at the top of the list can be directly appointed; it can be done through a pool. So the principal can request the first five teachers off the list and then interview those people; but it is rare that somebody comes straight off the top of the list. There are some schools in country areas that may do that from time to time just because it is quicker and they know they are not going to have many applicants in any event.

**Mr LEE EVANS:** I have just noticed in my local schools the quality of teachers over the last couple of years has improved, not only teachers that are coming into the schools but teachers who have been there for quite a long time and are upskilling. I have noted that, particularly in my high schools, enthusiasm has returned and the staff are buoyed and they have got projects on the go. It just seems that there is a bit of a buzz happening within the high schools. When we first came into government they were just churning the students through, but now they are quite exhilarated with the opportunities.

**Mr RIORDAN:** That is great. There has been a lot of reform put in place. We have put a lot of focus on building the professional capability of our teaching workforce. The Great Teaching, Inspired Learning initiative is about building that quality. We are very proud of what we are doing to build the capacity of our teachers. Quality teaching produces very good student outcomes.

**CHAIR:** Does the Acting Auditor-General have anything to add?

**Mr WHITFIELD:** No, I do not.

**CHAIR:** Thank you for appearing today, Mr Riordan. We appreciate your participation. You have taken a question on notice. The Committee may wish to send you some additional questions in writing, the replies to which will form part of the evidence and be made public. Would you be happy to provide a written reply to the question on notice and any further questions?

**Mr RIORDAN:** Of course.

**CHAIR:** Thank you very much for coming today.

**(Mr Riordan withdrew)**

**TONY WHITFIELD**, Acting Auditor-General, Audit Office of New South Wales, and

**KATHRINA LO**, Assistant Auditor-General—Performance Audit, Audit Office of New South Wales, on former oath:

**KELLY MILLER**, Principal Manager, Driver and Vehicle Policy, Transport for NSW affirmed and examined:

**JANET THYRA ELMS-SMITH**, Director, Education Employment Preparation, Pathways and Equity, TAFE NSW,

**GEOFFREY ALLAN McKECHNIE**, Corporate Sponsor for Aboriginal Issues, NSW Police Force,

**TRINA MARIE McCONNELL**, Deputy Director, Technical Advisor Services, NSW Office of State Revenue,

**JULIANNE MARIE EVANS**, Deputy Director, Fines Enforcement, State Debt Recovery, NSW Office of State Revenue,

**MARGARET EDWINA CRAWFORD**, Acting Director, Aboriginal Services Branch, Department of Justice, and

**BERNARD CARLON**, Acting Executive Director, Centre for Road Safety, Transport for NSW, sworn and examined:

**CHAIR:** We will now proceed with the performance audit report titled "Improving Legal and Safe Driving Among Aboriginal People". Mr Tony Whitfield and Ms Kathrina Lo from the Audit Office of NSW have already been sworn in. Thank you for all appearing before the Committee today to give evidence. As part of the formalities I ask that each of you either take an oath or affirmation and then state your full name and title.

**Mr CARLON:** Bernard Carlon, I am Acting Executive Director, Centre for Road Safety, Transport for NSW. I am here in my capacity as the head of the Centre for Road Safety.

**Ms MILLER:** Kelly Miller, Principal Manager, Driver and Vehicle Policy, Transport for NSW. I head up the driver licensing and vehicle registration section.

**Ms CRAWFORD:** Margaret Edwina Crawford and I go by my middle name. I am Acting Director of the Aboriginal Services Branch that is looking after a number of actions and recommendations from the report.

**Ms EVANS:** Julianne Marie Evans, I am Deputy Director Fine Enforcement, State Debt Recovery, NSW Office of State Revenue. I am appearing here today as Deputy Director Fine Enforcement.

**Ms McCONNELL:** Trina Marie McConnell, Deputy Director, Technical and Advisory Services, NSW Office of State Revenue.

**Mr McKECHNIE:** Geoffrey Allan McKechnie, I am presently the Acting Deputy Commissioner, Field Operations, NSW Police Force. My usual role is as the Assistant Commissioner in charge of the western region in New South Wales. I am also the NSW Police Force corporate spokesperson for Aboriginal issues.

**Ms ELMS-SMITH:** Janet Thrya Elms-Smith, Director of Education, Employment Preparation, Pathways and Equity, Western Sydney Institute of TAFE NSW. I have statewide responsibility for the Foundation Skills Work Unit, which manages courses in foundation skills across the State.

**CHAIR:** Before we commence with any questions would any of you like to make an opening statement?

**Mr McKECHNIE:** I would like to put on record that for some time the NSW Police Force has had concerns about the situation where often our first adverse interaction with young Indigenous people in New South Wales is around traffic offences. So we have taken an interest over a long period of time in terms of trying to work with other agencies to implement strategies to overcome that. I certainly thank the Audit Office

of NSW for giving us an opportunity to speak to them when it was doing its community consultation on this issue. It is an important one for us, particularly in western New South Wales, where young people often require a driver licence for employment. Whatever strategies and support that we can put in place to overcome the non-issue of licences to Indigenous people and the inability to actually often retain a licence is very important to us.

**Mr CARLON:** Since the report the Centre for Road Safety has also developed a NSW Aboriginal Road Safety Action Plan, which is the first in our portfolio area. It has a range of programs, which have been initiated to tackle the safety issue. One of the key underpinnings for that was the need to provide better quality data and information about road trauma associated with Aboriginal people in New South Wales. We have completed a project as well, which has now analysed the data from 2005 to 2013 to identify the fatalities and serious injuries associated with Aboriginal people. It does have some limitations associated with it in terms of requiring the voluntary identification in the licensing system. However, it is the best and most robust information that we had available to us to this date. There are a range of initiatives that we would be happy to mention throughout the hearings around our efforts to reduce trauma within the Aboriginal community on the roads.

**CHAIR:** I will start with the Department of Justice. The Committee notes Cabinet's consideration of a proposal for the courts to be able to lift a licence disqualification after an offence-free period. Can you provide the Committee with an update on that?

**Ms CRAWFORD:** The interagency committee—which unfortunately is behind schedule—will look at considering some legislative changes that are within our scope to identify. It is a challenging issue that has been brought up with Aboriginal Affairs as well and we are looking for opportunities to do that. The interagency committee is due to meet in December and we will be coming up with a schedule of works around a number of the recommendations that are in the report. We are quite happy to come back once that schedule of works has come to the committee, to give you some more information on what we can do in that space.

**CHAIR:** Can you give a time within which we might expect something to be ready to go to Cabinet?

**Ms CRAWFORD:** That will be dependent on the schedule of works from the interagency committee but it is an urgent action from both our end and that of Roads and Maritime Services [RMS]. When the committee meets it will be coming up with a schedule of works. That will be fairly quick and we will be very happy to come back immediately with some time frames around that.

**CHAIR:** So it is considered urgent—top priority?

**Ms CRAWFORD:** Yes, definitely.

**CHAIR:** Excellent. Could the outcome of that be supplied in writing post your December meeting?

**Ms CRAWFORD:** Yes.

**CHAIR:** Thank you. Can you update the Committee on some of the achievements of the interagency working group?

**Ms CRAWFORD:** The interagency working group has met twice and has developed draft terms of reference. The group will have its third meeting in December this year. One of the things we appreciate is that although we are significantly behind schedule with that, at the same time we have had all the agencies across the Justice cluster doing quite a lot in that space. We are really looking forward to getting that group together to come up with a schedule of works so that it can really magnify the efforts around drivers' licensing. As the audit report identified, there are a number of things that people are doing but it is just not having the impact we would like around reducing the rates of contact with the Justice system and incarceration. We are looking at picking up a few areas where we can get some quick wins and looking at the data to see where the real problems are. We have a number of Aboriginal people who come into contact with the courts for driver's licence offences which range from prescribed concentration of alcohol [PCA] offences to never been licensed, to driving whilst disqualified.

So it is a matter of understanding the population group we are dealing with and the specific offences and then coming up with a way to address those in a more targeted way so that we can get a bigger impact. There will be a working group that will sit under that group with all the key stakeholders across the Justice



cluster, to look at what everyone is doing and collectively decide on specific actions in that space. The schedule of works will have that detail and that time frame which we will come back and provide to the Committee.

**Mr CARLON:** We have met a number of times since the audit report but I think there have been some significant achievements that have resulted from those interagency discussions and some of those have been incorporated in the Aboriginal Road Safety Action Plan. For example, there is now within the plan, within the Safer Drivers course for young people, we have a course now that is available in the market. More than 440-odd people of Aboriginal descent have completed that course. We have now announced that, for those who are financially disadvantaged, we will be offering up to a thousand places for the financially disadvantaged to participate in that Safer Drivers course, which will take 20 hours off the 120 hours that are necessary to get a licence. There has also been a significant partnership between us, Aboriginal Health and the Medical Research Council with regard to assisting families with the fitting of restraints. Young children are particularly vulnerable in those circumstances. There have been 17 workshops provided in the community and more than 846 child restraints that have been supplied and properly fitted in the communities as well.

The report highlighted in the driver mentoring space that there had been a history of ad hoc, but worthwhile, initiatives across the State in funding organisations to provide mentoring services at a local level. And in the last couple of years since the report there have been an additional 224 learner licences, 161 provisional licences and 3,100 supervised driving hours provided out of additional courses that have been coordinated. More importantly, in July we completed a tender arrangement across the whole of the State which now has authorised up to 18 service providers that cover the whole of the State, who can provide those mentoring services for young Aboriginal people who do not have the capacity, who do not have access to a vehicle or access to supervising drivers, through a program that we are funding. The first tranche of that program will be a \$1.2 million investment this year to initiate that process across the State, providing access to gaining a driver's licence to those who are most vulnerable.

Out of the work that has been done across the agencies there have been some significant achievements. Obviously, we need to be doing more in order to reduce the road trauma associated with Aboriginal people.

**Mr STEPHEN BROMHEAD:** Mr Carlon, you spoke about the mentoring and it is being rolled out across New South Wales, so therefore country New South Wales. Is the Safer Drivers course you mentioned being implemented in country or regional areas?

**Mr CARLON:** Yes, the Safer Drivers course is also available across the State. We have a range of service providers that are providing those services across New South Wales, including Police Citizens Youth Clubs [PCYC], NRMA and a range of other organisations. That course has been capped at \$140 per participant, in order to make it affordable for people. That is a subsidised process, for that \$140.

**Mr STEPHEN BROMHEAD:** What is the cost for Aboriginal drivers?

**Mr CARLON:** It is \$140 for any participant. We have had more than 460-odd Aboriginal identified people participate in the course so far. And we have now initiated a process where those who are financially disadvantaged will have their participation in that course 100 per cent funded.

**Mr LEE EVANS:** Teasing that out a little—where do we start the process, particularly with Aboriginal drivers? Do we start it in high school? Where do we start the process of engaging them?

**Mr CARLON:** Those organisations, for example, that we have now contracted within the tender arrangements are community based. It may come to attention—through police, the PCYC, the Aboriginal health service, a youth service locally or through a family network—that a person may need support in gaining their licence. They are then assessed in terms of eligibility. But in terms of how they start or how they enter, it may be that they have done a work and development order or it may be that they are in their early twenties and they are needing to get a licence for work. So I think there is a variety of different pathways through which people access these sorts of programs but I think the critical element of that is that it is locally based, so within local communities, that they are identified and offered the opportunity to participate.

**Mr LEE EVANS:** It is not in my electorate but outside my electorate there is a school that is doing the Clontarf Foundation program. That program encourages boys to do the right thing through the driving programs. That is what I have just mentioned, that if you can get them at the school age, engaged and wanting to do the right thing, it follows through—just a comment.

**CHAIR:** Returning to Justice, if I may. Since the audit, what has the department done to develop and promote some diversionary and sentencing options for driver's licence offenders?

**Ms CRAWFORD:** The Aboriginal Services Branch has Aboriginal client and community support officers located in court. We have an Aboriginal driver's licence offence program. In the 14 courts where it is currently operating, when Aboriginal people come into court with a driving offence our officers go and sit with them. If they are willing to participate in the program, we carry out an assessment to work out what type of offence it was and maybe scratch the surface to discover the driving forces behind the original offence. We then develop a referral plan. Over the past two years 1,634 people have participated in that program.

We refer them to funded services, like the Police Citizens Youth Club [PCYC]. We have a lot of referrals to them and work with them to address literacy and numeracy issues. PCYC cover that in their drivers' course. We also link people with TAFE and provide them with opportunities to do safe driving programs that way. We have had a lot of success. We are looking to expand the program to 22 courts in the next year. We are looking for more opportunities to engage more people in the program. It has become a significant issue.

We have been doing work with the NSW Registry of Births, Deaths and Marriages [BDM] on financial hardship. I will provide the figures on notice, but we have worked with BDM to implement fee waivers for some people in significant financial hardship. Recently at Penrith our court worker had great success. An Aboriginal man had a very complicated case. He thought he was registered as a certain person but he was registered as somebody else. We were able to work with BDM to sort that out. Our court worker obtained an adjournment from the magistrate, who said that if we could sort out his identification and he could get his learner's licence then we could look for a better outcome. We got that sorted out for him. The partnership with BDM was really important. We got his identification sorted out and he has his learner's licence. That is one example of the opportunities in that situation.

We are looking for more opportunities to do that. Dubbo is a hotspot for driving offences, and we are looking to increase program participation there next year. It is a challenge for some people in the communities we are working with because they are far out of town and there is no transport. People get into their cars and drive without thinking about the consequences. Through our driver's licence offence program we are looking for an opportunity to work with those people.

The work and development orders scheme and the time to pay scheme have been really important for a lot of our clients in custody—juveniles and adults. People turn up at court having committed offences and are unable to obtain a driver's licence because of fines. We have been able to refer many people to the time to pay scheme so that they can reduce their debt and pay their fines. That has been quite successful in the community and for people in custody.

**Mr LEE EVANS:** It turns into a vicious circle. People drive without being properly licensed, get fined and lose their licence. I know some people in Moree who are out of town and who drive into town because they need groceries. People keep losing their licence and getting fined and end up incarcerated. It is an issue not only for that community but for everybody. People are sitting in jail for not paying fines for driving without a licence because they had to buy groceries.

**Ms CRAWFORD:** Yes. It is an issue. It is in the top four of our categories of adult offences. Its importance is not lost on us. Across the cluster we are thinking about what we can do collectively to make a difference. Interagency work is important. There are great opportunities there. The audit report makes some good points about aspects of the system where we can come up with some options. It is also important to work with communities to change behaviour, to ensure that people are aware of the consequences of driving offences. That will be a challenge.

**Mr LEE EVANS:** It is up to the women in the community. Women are the key.

**Mr GREG PIPER:** Ms Crawford's answer opened up an opportunity for us to talk to our friends from the Office of State Revenue about the ramifications of defaulting on fines. Would you discuss recent trend data on licence suspensions and cancellations due to fine default? There is a bit to discuss, including the work and development orders [WDOs].

**Ms EVANS:** We do not have specific evidence of people going to jail for defaulting on a fine. We previously had community service orders but we do not issue them anymore. There has been significant growth in the number of work and development orders. Last financial year, 13,640 WDOs were issued and 12,146 of them were fully complied with. One of the issues is that we do not collect data on Aboriginality unless people volunteer that information. Our records rely on people volunteering their status to us. We could do more work on that.

We have two full-time Aboriginal client advisory officers who promote the WDO scheme and go to fines days, in conjunction with a number of other agencies, such as Legal Aid. We are doing a lot of work on this issue, where we can. Last financial year the advisory officers did about 120 visits in rural, regional and remote areas.

**Mr GREG PIPER:** You did not mention sending people to jail. We will talk more about the problems with licence suspension. The Committee has been told that there are problems with the work and development orders in identifying people who might be eligible for the scheme, and there are privacy issues, particularly with Centrelink. Is that being pursued? Have there been discussions with Centrelink concerning the exchange of data?

**Ms EVANS:** Yes.

**Mr GREG PIPER:** Have you been able to find other ways to identify and engage with Aboriginal drivers? I know you have touched on that. It is obviously an identified area of concern.

**Ms EVANS:** It is, yes.

**Ms McCONNELL:** The Office of State Revenue has been working closely with the NSW Ombudsman, the Commonwealth Ombudsman, the Department of Social Services [DSS] and its counterparts in Human Services. To date, we have had about five meetings on data sharing. Designing a mechanism to ensure privacy is a challenge that we are working on. There is a working group and I sit on that group as a representative of the Office of State Revenue. With Centrelink and DSS we are looking to identify particular fields so that we will be unable to share their data but they will be able to create a particular field to assist us. It is always difficult to define a vulnerable client. That is why we are working closely with the policy areas of DSS. I expect progression in that area in about six months, because it involves working with Commonwealth Ministers and our Minister and addressing some difficult legal challenges.

**Mr GREG PIPER:** Thank you.

**Mr STEPHEN BROMHEAD:** Ms Crawford, you spoke about the Aboriginal driver's licence program being in place in 14 locations and being rolled out to a total of 22 courts. At a later date, are you able to provide a list of the 14 locations and the proposed locations?

**Ms CRAWFORD:** Yes, absolutely. One of the other recommendations of the audit report was to fill some of our court-based positions. We have been undertaking rolling recruitment over the past two months. That number might even increase, depending on the recruitment that we are doing. I am more than happy to provide that information and keep the Committee updated.

**Mr STEPHEN BROMHEAD:** Thank you.

**Mr LEE EVANS:** Ms McConnell, what sort of data is difficult to share between the agencies?

**Ms McCONNELL:** I am feeling in the hot seat now. Commonwealth agencies are unable to share their data, so Centrelink data, because of Commonwealth privacy laws. There are some workarounds and some proactive solutions to work in the vulnerable space. Particularly, the issue arose in relation to some concerns that had been raised by the NSW Ombudsman in relation to garnishee practices. Unfortunately, there are a few difficult matters that do fall in the cracks when we are not aware of the circumstances of vulnerable people so whilst we have perhaps attempted to contact them several times there is a life cycle of the process. There have been some difficult matters that have ended up being referred to the Commonwealth and New South Wales Ombudsmen. That is what prompted our work with Centrelink. We want to be able to identify those who are vulnerable. There are certain protections in the Social Security Act, around section 62, which set up a certain formula—it is quite a complicated formula so I will not attempt to explain it now—on protection amounts in

bank accounts. We do not want to—I am sure Ms Evans can help me here as she is looking at the garnishee information. We are looking to work with the Commonwealth around perhaps adding an extra step before we garnishee to file and data matching so that we can identify a certain category of people so we do not make those who are already identified as vulnerable fall into an extra area of distress.

**Mr GREG PIPER:** Could you be more specific? Are you talking about data that identifies ethnicity, Aboriginality, socio-economic circumstance, duration?

**Ms EVANS:** Basically, if someone is on a Centrelink benefit. Our issue is that for someone to be on just a Centrelink benefit does not necessarily mean that they are vulnerable. Also, other people who are low-income earners may be vulnerable and not on a Centrelink benefit. We would like to identify—we have an arrangement with the Department of Human Services where we can do Centrepay to give people a time to pay—so that we do not do a garnishee order for anyone who is vulnerable. The only way to identify them is if the person identifies with us and we give them four notices at least and if they acknowledge that they have an issue with paying then we can look at things like work and development orders or a waiver or a write-off depending on how vulnerable the person is. We have a number of ways to address that. What we are able to do with Centrelink so far is, if we have the customer's permission, to check what benefit they are receiving but we would like to have that data wash where we do not get all their data but we wash our data with theirs to see which people we have on our books are also on Centrelink's books and the type of benefit they are getting. Centrelink is intending to put flags on its data to say where someone has been identified as being on extreme hardship. As Ms McConnell mentioned, we have been working on this over a number of years and we are still working. We have the NSW Ombudsman speaking to the Commonwealth Ombudsman to also push from that end the Department of Human Services. We have done a number of things to try to rectify that.

**Mr LEE EVANS:** Has the NSW Privacy Commissioner been involved in that process?

**Ms McCONNELL:** No, not to date.

**Mr LEE EVANS:** Do you want her to?

**Ms McCONNELL:** If there were proposed legislative amendments, as a matter of automatic consultation we would involve her. One of the challenges in the Aboriginal space—I am looking at an example here—is that we do not know that they are Aboriginal. To give you an example, SDR recently conducted a study of fine defaulters under the age of 25 in the Bourke area. Only eight of the 149 clients with outstanding fines debt—that is, 6 per cent—were identified on the SDR system as actually being Aboriginal. It is acknowledged this is very likely underreporting of the true situation largely because recording of Aboriginality on a diver licence is voluntary and police and other agencies do not collect this information when imposing a fine. We are met with a lot of challenges in working across government and with other agencies. We are working collaboratively with our State and Commonwealth counterparts. To go back to the questions around data, it is really establishing what it is that we need to collect and getting definitions that may progress to some legislative amendments, and we are not there yet.

**CHAIR:** In some ways we are fighting with one arm tied behind our back. We do not have anything to compel people to declare their Aboriginality and that is not necessarily desirable. Whilst we are trying to come up with programs to help that sector or group of people, we are finding it difficult to identify who they are.

**Ms McCONNELL:** Yes, and unfortunately we often do not know their background until they become into distress perhaps because of a garnishee or a licence suspension or one of the other sanctions has been applied. At the point that they do come into contact with the system or one of the advocacy groups we work closely with then we can work with the individual or community with the particular processes and mechanisms we have in place. But you are right that often we do not know until they come into contact with us and that is at the wrong end of the process rather than the beginning.

**Mr LEE EVANS:** Yes, you are working at a decided disadvantage because you are part of the end of the process and you really need to do the work at the beginning.

**Ms McCONNELL:** That is correct; we do not issue the fines.

**CHAIR:** My question is perhaps for representatives of Transport for NSW. Ms McConnell mentioned ticking a box for a licence application and declaring Aboriginality being optional. Why is that information collected?

**Ms MILLER:** Basically, data collection started back in 2011 so we have had one full five-year licence renewal cycle. At the time it was because of some of the issues that were raised around the disadvantage of Aboriginal communities, particularly in the licensing space, so it was decided it should be introduced so we could try to improve our data collection. The reason it is voluntary is we do not want people to feel compelled and that they may be victimised by making it mandatory to declare their ethnicity or Aboriginality status. There was a research report done back in April 2014 and some stakeholder consultation as part of that. They found that most people were quite happy to tick the box. The statistics may be starting to get to the point where they are quite accurate but obviously they are not going to be perfect given that it is still voluntary.

**Mr CARLON:** To add to that, one of the primary roles of the providers that we have contracted—there are eight providers across the State and eventually 18—is at the local level looking at issues like licensing enrolment support and literacy, numeracy, computer skills but also debt negotiation and management. So they are attempting at the grassroots to facilitate access to SDR programs or other avenues in order to facilitate people to get around those barriers that currently exist at the local level. That is a core part of the service that is embedded in the contract for the service providers providing not just the mentoring for getting a licence but also dealing with the circumstances of the individual at the local level to assist them to negotiate the process within government as well.

**Mr MARK TAYLOR:** I thought that rolled into NSW Police, Mr McKechnie. Are there issues you want to raise or comments you wish to make about the capacity to note Aboriginality in your database systems?

**Mr McKECHNIE:** It is not something we do. It is probably not something we would look to do. We do not ask those questions when issuing infringement notices. In fact, we are trying to streamline that process as much as we can, and move to an electronic process of issuing traffic infringement notices [TINs]. I understand how that data may be valuable to some people but we do not delve into people's ethnicity or background until they come into custody. During the issue of a traffic infringement notice—although a person is in the presence of police and there is that loose custody situation—we do not ask questions that would inform the databases. It is not something that we have contemplated.

**Mr MARK TAYLOR:** On that training and education issue, how does the NSW Police Force train its officers to use discretion in relation to minimising licence disqualifications and flow-ons for less serious traffic offences?

**Mr McKECHNIE:** It is certainly an interesting area from a training perspective. Discretion comes with the office of constable. We all hold the ability to use our discretion. At the initial training stages, advice and information is provided around ethics, integrity and all the types of things that go hand in hand with the use of discretion. I guess it comes with experience. Different officers see things differently—as we all do. Some officers would see some things more seriously than others. That is why we have some inconsistency. I often hear people saying, "I got a ticket but he or she didn't for similar types of offences." It comes back to officers using discretion at the time. There are a myriad of circumstances that might influence a decision. We certainly encourage our officers to be fair, but given their important role in road safety, particularly our traffic and highway patrol officers take a very serious view of road safety issues. The use of discretion is often reduced in circumstances where road safety has, in the officer's view, been compromised.

**Mr STEPHEN BROMHEAD:** You gave us two answers just then. The first was that the only time that we look at Aboriginality is when someone comes into custody—not at the TIN process. Your second answer was with respect to discretion—giving someone a ticket or diverting them somewhere else. If an officer does not know at the start that someone is Aboriginal, the officer cannot use that information when deciding to use discretion.

**Mr McKECHNIE:** Particularly in the more regional parts of the State, where I operate, generally people know each other. The police know who the locals are so obviously they know their backgrounds. Some of our communities have a very high representation in terms of Indigenous population. We work closely with those communities. It is not so much of an issue when the police know the person, the family or the background because they can apply their discretion based on all of that information. They often come across people who are strangers to them, as well, and they use their judgement in those cases. Discretion is a difficult issue because, as

an Assistant Commissioner, I cannot give instructions to police about hard and fast use of discretion, because that could be seen as trying to influence process. We need to be very careful.

Through our Aboriginal Strategic Direction document, which governs our response to Aboriginal issues in NSW Police, we encourage that high level of engagement with communities. Police are actively involved in community functions and gatherings, and getting out there to talk to people—particularly young people—to try to establish relationships so that we are on a better footing with Aboriginal people right across New South Wales. I mentioned at the start that often that first adverse contact with police is around a simple traffic matter. We have talked through some of the other issues here, where people can end up with fines, fine defaults and then licence suspension, which leads to disqualification. We are coming across people who have been disqualified for 40 years. That is superfluous. It is never going to work out. People are not going to stop driving for 40 years. When they live in regional and remote areas of the State they have to get to town and they need to drive in order to do whatever it is they need to do. Then they end up in custody.

That is why we see the cycle that you talked about before, where these people go round and around through this process. I think there are two areas we need to concentrate on. The first is with respect to the children, through school. We talked earlier about the possibility of students getting a driver's licence through the schooling process. Leaving year 12 with a driver's licence would mean that young people would avoid the likelihood of coming into contact with the police.

The second is with respect to the people who go through those processes. Rather than suspending their licences or disqualifying them for 40 years we need to look at how to change that person's behaviour. If they need to drive a car we should look at how to get them into programs so that they are able to drive a vehicle safely and with responsibility. Otherwise we are going to continually be locking those people up. That is our core business; we are happy to oblige—but if, strategically, we can make a difference in that regard, there can be all sorts of impacts.

**Mr STEPHEN BROMHEAD:** I would like to make a comment about that. One of the problems with doing the courses through the schools is that 70 per cent of the general population of students go on to get their Higher School Certificate. For the Aboriginal community the average is 30 per cent, and there are many areas where it is far less than that. The school courses may be good for Newcastle, Sydney and Wollongong, but for many regional areas, it is a dream.

**Mr LEE EVANS:** Mr Bromhead, in the Clontarf program, 92 per cent go through to year 12.

**Mr STEPHEN BROMHEAD:** You just have to convince all the schools to take up the course.

**Mr LEE EVANS:** We have to convince this Government.

**Mr McKECHNIE:** There are many good programs operating, particularly across the west of the State. We fund some of them through our strategic direction funding. PCYCs, in particular, get involved with other sporting groups and schools and try to enable these young people to get their hours up in order to meet the licence requirements.

It is often a double-edged sword. You think about all of these things and talk to people and put these views forward, but you discover that there is some reluctance amongst young Aboriginal people in some towns to get a driver's licence because they then find themselves, in their words, "used as a taxi". If they get a car they are often required to drive all their mates around. We cannot go out and force these young kids to get a licence. There are reasons they may not want to get one. We just have to work with those who do want a licence, at that very early stage, if we can, and encourage them into responsible approaches to driving and motor vehicle ownership. That is where we are trying to concentrate our efforts.

**CHAIR:** If you continue to drive whilst disqualified you end up being locked up. What makes the offence of driving whilst disqualified so serious that it requires incarceration?

**Mr McKECHNIE:** Over time, it has developed through the courts. Someone starts off with a first offence of driving unlicensed. Then they are suspended from driving. Then there is the more serious level of disqualification from holding a driver's licence for some significant period of time. I should not guess, but I think that if you have three offences of driving while disqualified there is a mandatory period of incarceration. That is what happens to people in more remote areas: They just keep driving and they keep getting caught.

Sadly, sometimes they engage police in pursuits to avoid getting caught because they know they are going to go to jail if they get caught. And it all started off with driving unlicensed. That is where we maybe need to be concentrating a bit more of our effort to try to encourage those people into a process. Obviously, the programs that we have heard about are. I am certainly pleased to hear that a lot of those are rolling out in regional areas as well because that is where we need them the most, in my view

**CHAIR:** I suppose it is a question I could put to any of the panel. The crux of it is why is this offence so heinous that if you do it three times you are incarcerated?

**Mr CARLON:** From a safety perspective the evidence is very clear that those drivers who drive disqualified or unlicensed are overrepresented many times in our serious injury and fatality data. The circumstances that lead to people taking risks associated with their driving are much more severe. Those risks are taken at a higher rate.

**CHAIR:** Is that unlicensed or disqualified drivers?

**Mr CARLON:** Both. Unlicensed drivers are overrepresented in the road toll because of the level of risk that they take associated with their driving behaviour. Keeping people within the licensing system actually reduces their risk. The evidence is very clear that if you are part of the formal licensing system you are much less likely to be engaging in risky behaviour that results in fatalities and serious injuries. That is one of the elements I suggest for why we are saying it is a really problematic area for people to be driving unlicensed.

**Ms MILLER:** Disqualification is usually attached to quite serious offences, high-range speeding or driving negligently or furiously and that sort of thing. I guess it is seen that people have committed quite a serious offence to be disqualified and hence it is sort of seen that some of the heavy penalties are an additional deterrent. They have already engaged in high-risk behaviour; we are trying to deter them from doing that again.

**CHAIR:** If somebody has been disqualified because they have been going 200 kilometres per hour in a 60 zone, what is your experience with the percentage of people that do not comply with their disqualification period?

**Ms MILLER:** I do not think I have those statistics with me.

**Mr CARLON:** Certainly I can give you that data. The reality is that they are many times more likely to be involved in a fatal crash when they are unlicensed. That is symptomatic of them having lost their licence for a very dangerous activity of high-range speeding or high-range drink driving. We know that high-range drink driving or speeding is also an indicator of risk-taking that leads to a higher rate of fatalities and serious injuries in the population.

**CHAIR:** I meant that if you have behaved unsafely behind the wheel of a car you get disqualified. I suppose I am asking you, Ms Crawford, as well. Are there a disproportionately higher number of people that contravene their disqualification period who are Aboriginal in the rural or regional areas than in the city?

**Ms CRAWFORD:** We would have to get some specific data for you but we can do that.

**CHAIR:** I am just thinking if people are going to return to driving no matter what the prospects for them, I would appreciate some information on that.

**Mr CARLON:** We do have that data. We are able to analyse the rates at which the general population versus the Aboriginal population drive unlicensed. We know from the data that we have gathered in assessing road trauma that the Aboriginal community are 4.4 per cent of road casualty trauma. Comparing that with the general population, they have almost double the likelihood of being involved in a serious injury or fatality crash. There is information available to inform the Committee associated with that.

**Mr LEE EVANS:** Is that a single occupant crash?

**Mr CARLON:** Again, we can drill down.

**Mr LEE EVANS:** All I am saying is there could be other reasons why they are crashing.

**Mr CARLON:** Yes, there are more people in the vehicle as well. We do have that data available as well.

**Mr MARK TAYLOR:** I will pick up on TAFE's involvement in tackling the problem. What is the uptake of the accredited course and foundation skills for learner drivers?

**Ms ELMS-SMITH:** We commenced that in 2014 and we had four institutes delivering it last year and six institutes delivering it this year. The course actually has four units in it, one of which is the foundation skills for learner drivers. Then there is digital literacy, symbols and another unit. What is not in the data in terms of enrolments is where those units have been picked up in other courses such as the Certificate I in Access to Work and Training. We had 168 enrolments in 2014 and 190 for the year to date in 2015. In addition to that there are, as I say, other programs. For example, Western Sydney is delivering the sponsored program through Roads and Maritime Services. There are a couple of groups going through that and that is specifically targeted at disadvantaged learners. Also the learner driver program, I think 615 students have gone through that program through Western Sydney TAFE as well.

**Mr MARK TAYLOR:** Are there impediments in the uptake of that course?

**Ms ELMS-SMITH:** I am not sure about impediments. There is one challenge in terms of eligibility. Aboriginal learners are eligible for a fee-free program; however, the eligibility requirements do not allow school students to participate in the program. But we are also looking at how we can better promote that course statewide. We have actually got a meeting on 24 November with the Foundation Skills Reference Group to determine how better we can deliver that program across all institutes. The program is also being promoted through Institute Aboriginal units and the Aboriginal Learning Circle.

**Ms EVANS:** We have currently got 48 active Work and Development Orders being satisfied by participation in a driver education program. That is just in the South Sydney area, which is through an organisation called Weave. We do think there was a suggestion that we allow WDOs to do that. I just wanted to report that that is allowed under the WDO scheme and we currently have people doing that through WDOs. They are doing that course and working off some of their fines at the same time.

**Ms ELMS-SMITH:** And TAFE institutes have also taken up the opportunity to become a WDO sponsor.

**CHAIR:** Deputy Commissioner, do you think that a record of Aboriginality should be recorded in the Computerised Operational Policing System [COPS] database with regards to infringement notices?

**Mr McKECHNIE:** No, sir, I do not. Obviously, we would have to ask that question. If we did it in terms of Aboriginal people the requirement would then be to do it for other people. It is not an appropriate question for us on the roadside when a person is merely receiving a traffic infringement notice. We need to move through that process quickly, politely, seamlessly and move on. Often it is a difficult question when you ask it.

**CHAIR:** Would you like to make any comments, Acting Auditor-General?

**Mr WHITFIELD:** I acknowledge that steps have been taken to implement our recommendations. From my perspective the disappointing aspect is that two years after tabling the report the interagency group has only met twice and is still sorting out its terms of reference. I just think that is disappointing.

**CHAIR:** Mr Carlon, do you have any comment to make?

**Mr CARLON:** I was going to just mention that I have found the data. Nearly one in five, 19 per cent, of Aboriginal fatalities from crashes involves a driver or a rider who was unlicensed at the time of the crash. That is significantly higher than the general population. With regard to the interagency frequency of meetings: message received and understood around that. I think the critical issue is whether projects and programs that are out there are delivering results as well. I think there is significant evidence that there have been some significant programs and initiatives that have been initiated directly in response to the Auditor-General's report.



So there are activities and projects happening that are aimed at delivering safer driving for Aboriginal communities on the ground, and there is a significant amount of work in other forums. For example, we have an interagency group coordinating the implementation of this action plan, which is not that particular interagency group; however, there is work across government to drive some of these projects, which came out of the Auditor-General's report, in order to deliver on the ground.

**CHAIR:** Thank you very much for appearing here today. The Committee may wish to send some of you additional questions in writing, the replies to which will form part of your evidence and be made public. Would you all be happy to provide written replies to any further questions? I will take it that you all agree unless you say no. That concludes the first part of the hearing.

**(The witnesses withdrew)**

**(Short adjournment)**

**CHAIR:** We will now proceed to an examination of Regional Road Funding—Block Grant and REPAIR Programs.

**TONY WHITFIELD**, Acting Auditor-General, Audit Office of New South Wales, and

**KATHRINA LO**, Assistant Auditor-General—Performance Audit, Audit Office of New South Wales, on former oath:

**RAMI AFFAN**, Acting Executive Director, Capital Investments, Transport for NSW, and

**KENNETH JOHN KANOFSKI**, Acting Chief Executive, Roads and Maritime Services, affirmed and examined:

**CHAIR:** Thank you for appearing before the Committee today to give evidence. Before we proceed, do you have any questions concerning the procedural information sent to you in relation to witnesses and the hearing process?

**Mr AFFAN:** No.

**Mr KANOFSKI:** No.

**CHAIR:** Would either or both of you like to make a brief opening statement?

**Mr KANOFSKI:** I would just say we welcome the opportunity to discuss the Auditor-General's report and other matters pertaining to the regional road funding.

**Mr AFFAN:** I have nothing further to add.

**CHAIR:** It is noted that Roads and Maritime Services partially accepted recommendation 1, to require councils to certify that they spent block grant funds in line with priorities established through the integrated planning and reporting framework. Why has RMS not implemented a limited quality assurance process over council certification that block grant spending accords with local council integrated planning and reporting priorities? Why was recommendation 1 only partially accepted?

**Mr KANOFSKI:** With regard to recommendation No. 1 we have implemented a system requiring councils to certify that they have spent the money in accordance with the purpose for which it was allocated. We certainly see our role as making sure that councils are allocated the money and that they spend it for the purpose for which it was allocated. We are certainly looking to encourage them to prioritise their funding in accordance with the integrated planning and reporting framework. I think the nuance to this from a Roads and Maritime Services perspective is that the roads in question are actually council roads and as such they are the responsibility of the councils. It is up to the councils to determine the priorities on which they spend their money. We partially accepted the recommendation and we have implemented it from the point of view of gaining assurance that the money is properly spent for the purpose for which it was allocated, but it remains our view that it is the job of councils to prioritise their spending.

**Mr LEE EVANS:** I understand what you have just said. Do you see copies of invoices? How do you know that councils have spent the money totally on the roads in question? For example, in a \$1 million upgrade for Smith Street how do we ensure that they did not do a dodgy job and spend \$500,000?

**Mr KANOFSKI:** Councils are public authorities. We gain certification from those councils as to the purpose for which they spent the money. In terms of assurance with regard to that, I guess there is a question—as the Auditor-General remarks in this report—between the administrative efficiency of this program and keeping those administrative costs to a minimum versus how much of that funding you choose to spend on assurance processes—effectively double-checking work that public authorities have certified they have done.

**Mr LEE EVANS:** I come from a business background where they could borrow the money from the State Government, do the work and there are invoices so they will get paid. Would that be a better way of being able to control the costs?

**Mr KANOFSKI:** As I said, from our perspective we want them to spend the money on the things they have been allocated the money for. I do not think there is a necessity for Roads and Maritime Services purposes to get into the detail of checking off people's invoices. They are public authorities and they are certifying that

they have spent money. All of their accounts are subject to audit and all of the statements they make are subject to all of the normal checks and balances of government. They are another level of government; they have got processes in place to ensure that the things they say are in fact correct. I guess the question is how much ought Roads and Maritime Services be double-checking that process.

**Mr STEPHEN BROMHEAD:** We heard earlier today about schools and teachers and that some teachers get some bad reports—five bad reports and they are looked into. Do you have a system of auditing councils where you get bad reports about the quality of their roadwork?

**Mr KANOFSKI:** As I have said, we do not have a system of auditing under this program. Different programs have different processes. The block grant program is an allocation to the councils to spend—it is a contribution towards things that are their responsibility to do. As I have said, our position is that it is the council's job to allocate that funding within its own road priorities, to spend it accordingly and to certify that they have done so.

**Mr STEPHEN BROMHEAD:** Is there a way of auditing the quality of their work?

**Mr KANOFSKI:** I am sure there would be a way of auditing the quality of their work but that is not currently part of that program.

**Mr STEPHEN BROMHEAD:** How much a year does the New South Wales Government give to councils for regional road block grants?

**Mr KANOFSKI:** One hundred and forty seven million dollars.

**Mr STEPHEN BROMHEAD:** That is a substantial amount of money.

**Mr KANOFSKI:** It is a substantial amount of money.

**Mr STEPHEN BROMHEAD:** Are you aware that in some council areas they spend the money on a regional road and then have to redo the road within 12 months?

**Mr KANOFSKI:** I am not aware of particular circumstances in that regard, no.

**Mr STEPHEN BROMHEAD:** Are you aware that there are a number of councils whose expenditure is greater than their revenue?

**Mr KANOFSKI:** I am sorry? Their expenditure is greater than their revenue?

**Mr STEPHEN BROMHEAD:** Their yearly budget expenditure is greater than their revenue in the same year? In other words, there is a gap between their revenue and expenditure.

**Mr KANOFSKI:** I would not have thought that was a Roads and Maritime Services issue. In accordance with a process we are allocating them a contribution towards their responsibility to maintain regional roads. The financial management of councils is not a matter for Roads and Maritime Services.

**Mr STEPHEN BROMHEAD:** Are you aware that there are councils that need to use government grants to supplement their revenue?

**Mr KANOFSKI:** As I have said, the financial management of local government is not a Roads and Maritime Services matter.

**Mr STEPHEN BROMHEAD:** It is very common for Roads and Maritime Services workers and management to know that money has to be taken from regional road block grants and other grants to top up their budgets.

**Mr KANOFSKI:** The regional road money is allocated for particular purposes and we seek certification from councils that they have spent that money in accordance with that allocation.

**CHAIR:** As it stands councils match 50 per cent of that funding, is that correct?

**Mr KANOFSKI:** It depends on the program. The block grant is a general contribution to roads. The repair program, which is a \$30 million program, is a 50 per cent contribution to a particular job. It has, as I understand it, a higher level of reporting because it is about individual projects. In the block grant area it is simply an allocation to a council for it to allocate. In the repair grant, where we would contribute 50 per cent, that is to a specific project and there is then reporting about that specific project. But, again, we are not out there checking invoices and inspecting work. It is a grant allocation; we are not supervising their work in that sense. We do encourage councils—because we want to see the maximum amount of money spent on the roads—not to use their block grant money to make up their 50 per cent in the repair grant but they are able to do so if they wish. It is not a breach of the rules of the program if they do that. We certainly encourage them not to, because obviously we would like to see the pool grow by them allocating general rate revenue or some other form of revenue to make up their 50 per cent. That would be our preference, and certainly what we encourage them to do, but in the end they are entitled should they wish to spend their block grant money making up their 50 per cent on a repair job.

**CHAIR:** Given that a conservative municipal engineer would put on a 12 to 20 per cent contingency on the cost of getting a project completed, were they all to come in on cost would the council keep the extra money?

**Mr KANOFSKI:** The projects are allocated a certain amount of funding and that is the amount of funding they get. You cannot have that both ways, frankly. And so the risk of the project—in terms of the capacity of doing the project for the amount that is budgeted—rests with the council. You would get yourself into an interesting spot if you were to say, "If you make any savings, we want them back." You quickly get the next question which is, "Well, if we have an overrun, will you top us up?" To which the answer is, "No, we will not."

**CHAIR:** The point I am getting at is that if you have a million dollar block grant and you bring it in at \$800,000, you would expect the extra \$200,000 to go into some further works on regional roads.

**Mr KANOFSKI:** And it does. I am not an expert in this but my understanding is that we do not ask for the money back but if there are savings, they are treated effectively like a block grant and they go back into regional roads in that area. The money is not handed back but it is applied to the same purpose.

**CHAIR:** Your concern, Mr Bromhead, is that it may be going into the consolidated revenue of the council?

**Mr STEPHEN BROMHEAD:** There are two parts to it. My concern is, firstly, that they are charging a million dollars and doing \$800,000-worth of work; the second thing is the quality of the work. Some councils will repeatedly do road works on a regional road block grant of \$2.25 million, or something like that and within 12 months they are having to go back and redo it. Or they will say, "If you give us extra regional road funding, we will do 13 kilometres" and then, two years later they will say that the money has gone but they have done only 6 kilometres. And, within 12 months, you are back doing the potholes. I just do not think that is value for money for the taxpayers of New South Wales. There is no way of auditing or any inspection to ensure that we are getting value for money. We do that with a private contractor; why would we not do it with a local council, particularly when there are red flags going up or it has a bad reputation?

**Mr KANOFSKI:** I go back to my original answer on this, that we are not managing those roads for these councils; they are the councils' responsibility to manage them. We are allocating a contribution towards the management of them. If the councils manage any part of their road program badly, it will have an impact on the maintenance of roads in their area, for which they are responsible. They have that responsibility and they are subject to audit and a whole range of reporting through accountability for local government. So at this point we have taken the view that we do not need to put a second set of accountability over this particular funding source whereby we go out and spend some of the money, because that is where we would have to get it from. We would spend some of that money auditing. We have not taken that view at this point.

**CHAIR:** Roads and Maritime Services has accepted recommendation 2, to publish benchmarking information on regional road maintenance costs and outputs by June 2015. Why does the publication of benchmarking information on costs and outputs need to await local government reforms, which has been stated a number of times in your responses?

**Mr KANOFSKI:** One of the key issues here is about the quality of the data. We are reviewing the data. Benchmarking is only as good as the data on which it is based. It is fair to say that historically the data has not been good. So it has been our view that you would not want to publish benchmarks based on the data that we have. I think there are two interplaying issues here. There is the issue that there is a whole range of changes happening in local government and what impact will they have? But I think probably the more important issue is, we are looking carefully at the improved data that is starting to flow under the integrated planning and reporting framework and seeing whether that data now is of good enough quality that we can publish benchmarking out of it. The critical issue here is not so much local government reform but the key issue is probably more about the quality of the data.

**CHAIR:** Mr Whitfield, do you have any comment on that?

**Mr WHITFIELD:** No, thank you, Chair.

**CHAIR:** The RMS accepted recommendation 3, to improve the integrity and reliability of the traffic information it uses to allocate block grants to councils. My question is: why do improvements to the integrity of traffic data need to await local government reforms? Is it simply the reliability of that data?

**Mr KANOFSKI:** Yes, I think there is a recurring theme here. We accept, with some minor exceptions, the Auditor-General's report—that is on the record. There are three issues: One is that we are implementing it in conjunction with local government, so we are working with them to do that. The second issue is, it is happening at a time when we have had historically poor data in this area and I think everyone concedes that. But that data is improving and hopefully will improve some more and we will be able to do something useful with it. The third overlay is the local government reform where, on some of these matters—not particularly this matter or the previous one—it does not make much sense to make significant changes to the system if there is going to be structural reform both at the regional organisations level and at the amalgamations level.

Those three factors, to a greater or lesser extent, are part of the challenge of implementing what we agree with that, yes, it has to be made more robust, it has to be more evidence-based and all those things, but you also need to be able to do that in a practical sense and do it in conjunction with councils, so that they can comply and get the reform to happen in a cooperative, rather than an enforced, way.

**CHAIR:** Is the relationship between local government and RMS uncooperative?

**Mr KANOFSKI:** No, the relationship between RMS and local government is the same as the relationship between the State Government generally and local government.

**Mr LEE EVANS:** So it is really bad!

**Mr KANOFSKI:** It is generally okay, but it has its moments.

**Mr GREG PIPER:** I think it seems to be good at officer level but maybe not so good at political level.

**Mr KANOFSKI:** There are always going to be challenges. There are challenges in Roads and Maritime Services' relationship with councils in the same way as with other things but, generally speaking, the relationship is quite good. Particularly, for rural and remote councils we need to accept that there are capability challenges in them being able to provide the sort of sophisticated information that we would expect on our own road system or that we would expect a big, well-resourced council to be able to produce. You need to be able to work with those councils to get a good outcome.

**CHAIR:** With well-resourced councils, would they have the capacity to take over more of the responsibilities of RMS so that you could concentrate on those that have the least capacity?

**Mr KANOFSKI:** That is probably a broader question in terms of Government's policy on allocation between responsibilities. That does not really go to the block grant issue. The splitting of functions between

RMS and local government is set in statute and clearly, if the Government has the will to want to change that, then it will change the legislation, with the support of the Parliament. We are constantly looking to try and make that arrangement work better. We currently have reviews underway. We are looking at how traffic committees work. We are looking at how to make more efficient the process by which we delegate a range of our powers to local government, under the Roads Act 1993. We are exploring how to do some of the things you alluded to—that is, have a system where those councils that have greater capacity in that area are given more autonomy and others that perhaps do not have the capacity are given less autonomy. That philosophy underpins all our relationships with local government. We are trying to move in that direction. It is a risk-based approach. We spend less time checking up on councils that have good capacity in this area and more time checking up on those that do not have the same capacity. It is a common philosophy.

**Mr GREG PIPER:** You spoke about the use of data. Recommendation 4 refers to heavy vehicles. There are questions about the ability to reasonably factor that into the formula for block grant funding for councils. I assume the profile is changing—that is, the number of heavy vehicles, such as B-doubles, that enter the equation. What does RMS plan to do to obtain more reliable heavy vehicle data? Given that road damage is caused largely by heavy vehicles, it calls into question the existing regional funding formula.

**Mr KANOFSKI:** We agree that the proportion of heavy vehicles should form part of the funding allocation formula for regional councils. There is no doubt about that. The challenge has been to obtain reliable data. That challenge is becoming easier. Technology is giving us better options for data collection. Through the implementation group, we are working to collect better data. In the foreseeable future we should have better data on which to base that sort of decision, at which point it will be included in the formula. It should be in the formula.

**Mr GREG PIPER:** What sort of data are we looking at? Is it numbers of vehicles and weight? Is it data on the subsurface effects? Is that factored in as well, because that looks at the characteristics of the road and how it was constructed.

**Mr KANOFSKI:** It is about the steps to the process. The current data that we obtain from councils does not distinguish between heavy and light vehicles, so it is of no value at all. The first step is to have a reliable measure of the percentage of usage of particular roads by heavy vehicles. We should be able to do that in a reasonable time. The question then is: What is the impact of that on the road network? That becomes a broader policy question. The answer is, yes, as a competent roads authority you want to know those things. Therefore, the councils should aim to know those things because they are the roads authority, to the extent that it is cost-effective. Should we consider them in the funding formula? That is a pretty big leap from where the funding formula is now. If we could get a reliable traffic count on heavy and light vehicles and build that into the formula for regional roads that would be a significant step forward.

**Mr LEE EVANS:** There are a lot of rural roads. For a year's program, what would RMS expect as a return, roughly? How many kilometres would RMS expect to be repaired for the amount spent?

**Mr KANOFSKI:** I cannot do that calculation.

**Mr LEE EVANS:** Is it \$1 million a kilometre or \$1 million for 500 yards? What is it?

**Mr KANOFSKI:** It really depends on what you are doing.

**Mr LEE EVANS:** They are local roads, though, not highways.

**Mr KANOFSKI:** They are. It depends on the intervention. Maintenance interventions can be anything from patching potholes—fixing a failure—to resurfacing, through to full road reconstruction. It is not unusual for a full reconstruction to change the standard of the road at the same time. Often roads are brought up to a modern standard. Saying you get X number of kilometres for a certain amount of money—

**Mr LEE EVANS:** It is too simplified.

**Mr KANOFSKI:** Yes. It depends on what the intervention is. I do not know the number off the top of my head, but RMS knows how much it costs to resurface the State road network on a per square metre basis. That is the sort of benchmarking statistic one would expect to see once there is reliable data. Then your question can be broken down into how much money has been spent on resurfacing and how many square metres have

been resurfaced, and how much has been spent on full reconstruction of how many kilometres. The issue is still apples and oranges but at least they are in the same fruit bowl.

**Mr GREG PIPER:** Clearly every road has its own cost profile for gradient and watertables and so on. I doubt I have seen a decent road reconstruction that did not involve substantial drainage work—drainage table, underground piping and culverts. I do not see how such a thing can be quantified. That is just a comment.

**CHAIR:** We touched on this earlier. RMS has noted that it is progressing with recommendation 11. The recommendation says that RMS should ensure that REPAIR project works use RTA technical standards. RMS responded that the working group considered that local councils should determine minimum standards for REPAIR project works, instead of RMS mandated standards. The Auditor-General considered that "this reported action does not adequately address the intent of the recommendation". What were the arguments of the working group in support of local councils determining the minimum standards for REPAIR projects, instead of RMS mandating acceptable minimum standards, noting that the REPAIR program is designed to meet regional rather than local council priorities?

**Mr KANOFSKI:** We encourage councils to comply with Austroads standards. We are trying to move away from having multiple sets of standards. Setting an RMS standard is probably not a direction that we would like to go in. We encourage councils to use Austroads standards. Could one consider mandating the use of particular standards? One could, although regional roads are the responsibility of councils. They are responsible for the standards of the regional roads within their area. As with all things, that requires judgement and prioritisation of their roads spend versus their other spend. That is the question for us. The heart of the question is: Are they the roads authority and therefore entitled to maintain the roads to the standard that they set and to be held accountable for that through the political process and otherwise, or does the State need to impose its standards? We have a strong view that we do not want to implement another set of standards. That is the first issue.

We have taken a view that we would like to encourage them to use Austroads standards because that makes sense. We have not taken a view that we ought to mandate them for the reasons I have talked about before—that is, they are their roads and they are accountable for those roads. Our position is that if you start to head down a path of saying we are going to start mandating a heap of things then you start to ask whether councils are the local road authority for those roads or are they not. Our view is very clearly they are accountable for the standard and therefore we do not seek to impose a standard.

**CHAIR:** I imagine the Austroads standards are quite prescriptive.

**Mr KANOFSKI:** Correct.

**CHAIR:** For road construction, could there be, say, performance standards to guide councils or do they exist now?

**Mr KANOFSKI:** The Austroads standards have a sort of blend of performance standards versus prescriptive standards. The judgement call at a policy level that local councils are making is: What is the performance I want from this road? The council then ought to hold its professional staff responsible for the technical standard to which the roads are built in order to meet that performance standard. In our view that is councils' job, not ours. There are performance standards and technical standards that support those performance standards. There is a good framework that has been developed over a number of years with input from a range of people. As I said, in our view it is the job of the council, through its normal accountability framework, to both set and enforce a standard.

**CHAIR:** Mr Whitfield, would you like to comment?

**Mr WHITFIELD:** No, thank you.

**CHAIR:** Thank you for appearing before the Committee. The Committee may wish to send you some additional questions in writing in relation to the performance audit. Your replies will form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions?

**Mr KANOFSKI:** Yes.

**Mr AFFAN:** Absolutely.

**(The witnesses withdrew)**



**TONY WHITFIELD**, Acting Auditor-General, Audit Office of New South Wales, and

**KATHRINA LO**, Assistant Auditor-General—Performance Audit, Audit Office of New South Wales, on former oath:

**BARRY DESMOND BUFFIER**, Chair and Chief Executive Officer, NSW Environment Protection Authority,

**CRAIG JOHN LAMBERTON**, Director, Hazardous Incidents and Environmental Health, NSW Environment Protection Authority,

**SCOTT ANTHONY HANSEN**, Director General, Department of Primary Industries, and

**STEVEN MICHAEL WILLS**, Group Director, Infrastructure and Land Management, Department of Primary Industries, sworn and examined:

**MATTHEW GLENN JAMES**, Head of Regulation, Non-Metropolitan Contaminated Sites, NSW Environment Protection Authority, affirmed and examined:

**CHAIR:** Before we proceed, do you have any questions concerning the procedural information sent to you in relation to witnesses and the hearing process today?

**Mr BUFFIER:** No.

**CHAIR:** Before we commence with questions, would any or all of you like to make a brief opening statement?

**Mr BUFFIER:** I certainly would, thank you. Thank you for the opportunity to appear today. The issue of contaminated sites is a critical area for the Environment Protection Authority [EPA]. We have supported all of the recommendations made by the Audit Office and all except one of those has now been completed within the schedule required. This has been a very useful exercise for the EPA in terms of getting extra resources to deal with a problem that has been with us since about 2010 when the legislation was changed in New South Wales to make very stringent reporting requirements on contaminated sites, which brought forward a large number of extra sites which created the backlog. We had previously been unsuccessful in terms of getting extra resources to deal with this. However, as a result of the report we got a supplementation this financial year of \$1.4 million to deal with the backlog. I had also managed to reallocate \$400,000 last financial year to set up a dedicated unit of 10 people. In addition to that over the previous two years—just finalised this year—we had spent \$500,000 developing a database and bringing four other databases together. This is against a backdrop where our budget for contaminated sites is \$1.8 million in total, so it has been very good in terms of giving us the resources to deal with what was a serious issue. We have done a number of other things in concert with that and that will probably unfold during questioning.

**CHAIR:** Are there any other opening statements? The EPA accepted the recommendation to develop a set of model procedures for the identification of contaminated sites as per recommendation 1. Progress has been made to consult with key land holding agencies to develop their own internal guidance. However, the EPA's response does not mention whether it will be developing and finalising a set of model procedures as recommended in the audit. Have the model procedures for identification and management of contaminated sites been developed and published?

**Mr BUFFIER:** Yes. They have been published and are available on the EPA website. They consist of introductory web text, a decision tree and five information resource sheets covering triggers for assessment, remediation options and ongoing management.

**CHAIR:** The Auditor-General notes that the EPA has revised its procedures manual to incorporate the process for dealing with sites brought to its attention without a notification form, as per recommendation 2. Is the EPA's process for dealing with the sites brought to its attention without a notification form supported by the new contaminated sites database for recording and tracking these identified sites?

**Mr BUFFIER:** Yes. It is not only supported by the database but has also been incorporated into the contaminated sites procedures manual, which has been significantly upgraded and updated. We are confident

that we now have a good process for tracking and recording actions taken to respond to each of those notifications. A notification does not necessarily go onto the database, because there has to be an assessment of the information to determine whether it is a significant issue, but the process is in place to enable that determination to be made.

**Mr GREG PIPER:** I will just follow on from that answer in relation to the notifications without forms. Mr Buffier, could you expand on where they would typically come from and how they would derive?

**Mr BUFFIER:** A report might come into the Environment Line—our standard 24-hour report line. It could be an anonymous tip-off or it could be some more detailed information. Once we get that information the inquiry is logged, and we then work through a process in relation to that.

**Mr GREG PIPER:** Is it the case that you might read something on the front of the *Sydney Morning Herald* and say, "Look, that is a notification." Are you proactive in identifying them? Often there are discussions about different issues. Do you take advance action to deal with those emergent problems?

**Mr BUFFIER:** Perhaps I could ask Mr Lamberton to elaborate on that.

**Mr LAMBERTON:** We get notifications in a lot of ways. Most commonly we get notifications through our liaison with councils. We have a pool of staff that specialises in contaminated sites and we also have our regional offices, which have pretty good relationships with local governments. So we have inquiries that come through local government and through the pollution line. Sometimes we hear through other government agencies with respect to land they own or dealings they have with the community.

Notifications can come through in a number of ways. We have had 200 years of industrialisation and various quality levels of management of industrial waste and chemicals. There is a potential for there to be quite a number of contaminated sites still to reveal themselves. So it is not surprising that from time to time these are uncovered during other land-use activities. Then, depending on the nature of the site, we may become the regulatory authority for that site.

**Mr LEE EVANS:** Following on from that, if you have a situation similar to the site out at Botany—when something major happened and the contamination was heading for Botany Bay—and your budget is restricted to \$1.8 million, are you able to draw more budget from somewhere?

**Mr BUFFIER:** Yes, we operate on the basis that the polluter pays. In those situations if we had to rely on taking a case to Treasury to get extra funding we would be severely inhibited in our ability to act quickly. We have the power to require the entity that is involved to undertake work, which means that they have to find the budget to do that. We do not rely on our base budget to do that. We rely on our base budget to have the core and the expertise that sets out what is required of the company. The process, under the Contaminated Land Management Act, is to require the affected company to do that work.

**Mr LEE EVANS:** Under circumstances where the polluter is not identified, what steps would be taken?

**Mr BUFFIER:** I will ask Mr Lamberton to cover that. As a result of the audit report we have implemented some cost-recovery processes so that we can recover some costs that go towards our base funding, as well.

**Mr LAMBERTON:** There is a hierarchy in the Contaminated Land Management Act. The first party we seek to pursue is the polluter and, after that, the land owner. In some cases the polluter is long gone—50 or 100 years ago. It is then the land owner who is responsible. We work through it with them. Sometimes it is complicated, and that is what slows down the process for contaminated sites. There might be multiple contributors. For example, a service station site might have been owned by three, four or five parties over 60 years, which makes it difficult. When the leaking fuel turns up in someone's basement down the road, which one of those parties is the responsible party? We have ways of scientifically testing it—with, for example, leaded petrol coming in and out of use—but that can lead to a protracted debate about who is accountable. That is why it is sometimes difficult to get these sites started. No organisation wants to be solely responsible for the clean-ups, because the clean-up costs are quite substantial, sometimes.

**Mr LEE EVANS:** There was a circumstance in my electorate where, in exactly the way you described, a tank had ruptured and fuel had seeped into the drainage under public housing. Vapours were coming out and it was very dangerous because one naked flame could have resulted in the whole place going up. That is why I was asking about those circumstances where you cannot find the person responsible for it. In those cases does it come out of your budget?

**Mr LAMBERTON:** Usually someone owns the land.

**Mr LEE EVANS:** It may be the Crown.

**Mr LAMBERTON:** Sometimes there is a problem with that. It may be owned by a little old lady who is on the pension. She may have bought the land or it may have been an old business but she does not have the capacity to deal with it. So we have a fund under the Contaminated Land Management Program in the NSW Environmental Trust that deals with what we call innocent owners, where the community needs intervention but the person we would hold accountable is not capable of undertaking that. We use that probably once every 18 months, on average.

**Mr BUFFIER:** That generally tends to be smaller sites.

**Mr LAMBERTON:** Service station sites are probably our most prolific small contaminated sites.

**Mr STEPHEN BROMHEAD:** The Williamstown air base is Commonwealth owned. How are you going with that?

**Mr BUFFIER:** That is a vexed question, in a regulatory sense, in terms of our ability to control and direct the Commonwealth. We have been using as much persuasion and coercion as we can in that situation. The legal response is that we do not have regulatory power to easily exercise in that situation.

**Mr LAMBERTON:** That is correct. We would follow the same processes for assessment and controls, with respect to what we would be seeking from the Commonwealth, but they know that we cannot force the issue.

**CHAIR:** Does the Federal Government have a contaminated lands Act similar to ours?

**Mr LAMBERTON:** No. That is one of the issues. For the Commonwealth agencies there is not a regulator that performs the same functions we perform. There is legislation in matters to do, say, with ANSTO—the nuclear industry and radiation. This issue came up several years ago when it became apparent that our legislation does not apply there either, so the Commonwealth set up a regulatory authority to regulate matters of radiation and nuclear matters. So Defence are regulated by that Commonwealth agency but that only applies to radiation matters; it does not apply to contaminated land.

**Mr MARK TAYLOR:** My question is about primary industries. In relation to the purchasing, selling, leasing and transferring of Crown land there are ongoing actions regarding contract conditions minimising risks and liabilities. With respect to those ongoing actions regarding development of contract conditions intended to minimise liabilities associated with the land, could you discuss any delays being experienced and indicate how those actions are coming along?

**Mr HANSEN:** The complexity of the 580,000 individual parcels of land that make up the Crown estate and the various complex natures in terms of the transactions there—we have leases, we have trusts, we have divestment, we have acquisition—we have been working through over the last 12 months. This fell a little bit behind when we started to actually map out all the complexity of the transactions we have in our Crown land estate and who we are dealing with in those transactions, but as of this month we now have contract provisions in place. All new contracts issued will cover and deal with the recommendations out of the audit report and ensure that we minimise further risk of liability or exposure for the Crown estate to contamination issues. We have been able to finalise through both stakeholder consultation and legal representation a series of standard words for inclusion in our contracts whether they be leases, sales or acquisitions.

**Mr MARK TAYLOR:** Has the department ensured that the impact of contamination is considered in the valuation of Crown land and a provision recorded for the cost of remediation in its financial reports?

**Mr HANSEN:** Again, it has been a significant piece of work for us in the first instance to be able to make sure we identify and take out of the normal costing basis of assets for the Crown land estate those sites that we identify as high risk. They then are individually assessed against both the potential value of the asset and then the contingent liability on that asset. They are dealt with separately on our balance sheet and have been adjusted in our financial records to take that into consideration, as has potential future contingent liabilities for the remediation of those sites. They are now both taken into account in our financial records.

**Mr GREG PIPER:** Mr Buffier, you referred in your opening statement to the Treasury bid for \$1.4 million per annum over two years. I note it was only successful for one year. What is your understanding of Treasury's position for further assistance for the next financial year? If it is not forthcoming in the next budget will that have significant implications for the backlog of work?

**Mr BUFFIER:** I would generally prefer not to comment on my prospects for Treasury bids but suffice to say that our assessment was that if we got \$1.4 million per annum for 2½ years that would be sufficient to work our way through the backlog of sites that we currently have. We will be making a further submission in relation to future years in order to deal with that backlog. Of the 834 sites that were in the backlog we have now assessed 229 of those sites. A total of 113 of those cases have been closed as not having significant contamination, 84 require further information to be assessed, we are preparing assessments for 27 of those and five have been declared as significantly contaminated.

At the time that the Audit Office report was done there was some criticism made that we had a backlog which we did not have much idea about. We argued that we did have a reasonable idea; we had done some risk assessment of that. These figures would tend to confirm what we thought—that is that our assessment process has been pretty close to the mark and that only five significantly contaminated sites have been picked up out of that. But in relation to your question, we have put a lot of resources into working our way through the backlog. We have put a lot of resources into developing the database. I am confident that we will get the backlog out of the way.

**Mr GREG PIPER:** The Environment Protection Authority accepted recommendation 4, which was to implement a streamlined process for prioritising and assessing sites notified under the Contaminated Land Management [CLM] Act. We are told that the Environment Protection Authority provided no detail on the effectiveness of the process. Could you provide the Committee with examples of the streamlined process that is being supported by the new contaminated sites database? Can I expand on streamlining and say that I have a view that the regulatory complexity around these issues perhaps needs to be streamlined as well. Would you mind talking about streamlining of the process generally in relation to contaminated lands?

**Mr BUFFIER:** I will make some introductory comments and ask Mr Lamberton and Mr James to support that. Contaminated sites by their very nature are complex and take a long time to resolve. If you look at the United States situation, there are many hundreds of thousands of sites there that are estimated to be contaminated and the remediation process is going to be 50 to 100 years. We are on a much smaller scale in Australia, but that is the same situation here. When we talk about streamlining we are not necessarily talking about not having any contaminated sites in the next 10 years in New South Wales because the extent of the contamination is such that some of these sites will be there for a very long time, as you know with Pasmenco.

**Mr GREG PIPER:** Forever.

**Mr BUFFIER:** Forever. I will ask Mr Lamberton to make some comments and then I will ask Mr James to follow up on the database because it is the database that we are using to streamline the system.

**Mr LAMBERTON:** We have streamlined some of the processes. Before we had more sequential steps and now we have rolled some together. Our initial assessment has been rolled into the section 12 assessment that is used to declare a contaminated site, which is the trigger that we need to apply regulatory powers. Again, that is Mr James's area. Also we have documented this in our guidelines. We have an internal document that explains to staff how to handle the range of processes that we need to go through so that we are consistent and so we can put them in place most effectively in terms of getting these sites through our processes.

**Mr JAMES:** Operationally for us sitting there working our way through the backlog of sites and using the streamline site assessment tool there is a whole range of things that come to us and get notified. By being able to go through the database and match those sites through the database tools to the ones that are not significant can be streamlined because we get such a vast range of sites notified to us. For example, one of the

oil majors has notified every single site in its portfolio. Obviously, there is an end of that spectrum that is not significantly contaminated. Through the database we can identify those sites, put them through a streamlined process and close them out quite quickly.

**Mr MARK TAYLOR:** Could you clarify the department's submission regarding the cattle dip site program? Is the information provided up to date and are there ongoing actions regarding the management of sites? This is in relation to recommendation 6.

**Mr HANSEN:** Cattle dip sites come into two categories. The first one is those on private land. I think there are just under 1,700 of those on private land and there are 214 on Crown land. We have now a detailed program around the management and close out of those 214 sites on Crown land. We can give you the breakdown of those individual figures, but basically we have single digit figures left active out of those 214. Mr Wills has the numbers. We have four that are still active, 20 that have closed and 65 that have lapsed. We have got five that have been decommissioned but still need some work done around other structures around those dips. We have 88 that have been decommissioned, 31 demolished and one that has been completely remediated. There has been significant progress moving them from that active end of the chain all the way through to the remediated. Obviously, not all sites need to be completely remediated depending on their fitness for purpose going forward. A project plan has been finalised and is now in place across the department, in terms of dealing with those 214, that helps us report regularly on progress on this front.

**CHAIR:** Just going back to the EPA with regards to recommendation 8—to improve and clarify public information on contaminated sites including spatial information—concerning the improvements and clarification of public information on contaminated sites, could you provide examples of the types of improvements to public information that have been implemented by the EPA, including spatial information?

**Mr LAMBERTON:** There have been a number of elements. One of the things is that we have made it easy for people to understand the progress on these sites so they can track against milestones, which is a different recommendation that we are addressing, so that the community can see and be confident that things are progressing. Also we have established what the milestones are so that if there is a regulatory order, for example, then that is publicly available so that the community can search through our public land register to find this information.

In relation to GIS, we have now got the latitude and longitude coordinates for all of these sites because in some places they are quite remote too and it is very important to locate these areas, and also a polygon which describes the shape of these sites. That means we can more accurately define where it is. Like all things to do with IT, in our next generation we hope to have some of the features that you see in Google Maps where you can hover on a site and pull up more information. But that is public money and we have got to weigh that off: spending on backlog versus developing more enhanced facilities for the sites we have got. But it is our intention to develop a more interactive site approach in the future.

**CHAIR:** With regards to recommendation 9, the Committee notes that the EPA's submission provides information on whether its new database addresses each of the points raised in the audit recommendation. Could you undertake to provide the Committee with more information and examples showing how the new database has improved management and has addressed the Auditor-General's recommendation?

**Mr BUFFIER:** Yes we could. We have a team of 10 people now devoted to this process based out at Lidcombe. I went out there a couple of weeks ago—maybe longer than a couple of weeks ago—and was taken through that whole process. To understand the database you really need to go out there, be sitting in front of the monitor—I am not too sure we can easily explain in words what that is. Matt, would you like to have an attempt?

**Mr JAMES:** I will have a go. When an officer receives information they will get voluminous reports—maybe a small report, maybe a bookcase of reports—and the process starts of assessing that information and entering it into the database. For the more easy sites we can tick off what the ground water level is, what the contaminant of concern is, what exposure pathways there are, what people are potentially affected or are affected. So if harm has actually occurred we can note that and get on with it; if it is around the edges we can look at where potentially it is likely to happen. There are flags in the database that allow us to take action quickly or whether we have enough information to make a decision. All that goes into the database and when we make the decision to regulate then we step into the next phase of the database where we assign actions to the regulatory process.

So when the polluter presents us with a plan with milestone dates, they go into the database; were they to, say, present a remediation action plan by a date; that turns up or it does not and it is noted in the database and the next step all the way along over the years to finally where a validation report which documents how the site has been cleaned up appears: has it been reviewed, has it been approved, maybe there is a site auditor involved. That can all get marked off in the database and then we get to the end where finally we are happy; everyone is satisfied that their land is adequately remediated and it is recorded there, so that, for instance, in the future if the land use changes it may then come back again: was it adequately remediated 20 years ago; the circumstances might have changed—as urban growth occurs different things happen. So it is a place for things to sit—records of decisions and the level of data so that we are satisfied as to how the decisions were made.

**Mr BUFFIER:** It is probably worthwhile commenting that the current database is what was previously housed in four separate databases. The work to consolidate this significantly predates the Audit Office work. So when we re-established the EPA, this was certainly an issue that Craig agrees with me about, how do we undertake this process and how do we get ahead of the game? So this was the first step in that process. It was implemented in March of this year and, as I said in my opening comments, we have spent about \$500,000 on it. But to get a real appreciation of it you need to be out there at the desk and have someone work through an actual example with you. But it is a very sophisticated system.

**CHAIR:** I think Mr James gave an admirable explanation of how it works. That concludes the hearing today. Thank you all for appearing. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions?

**WITNESSES:** Yes.

**CHAIR:** Thank you very much again.

**(The witnesses withdrew)**

**(The Committee adjourned at 12.16 p.m.)**