

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 6

**INQUIRY INTO VOCATIONAL EDUCATION AND TRAINING IN
NEW SOUTH WALES**

CORRECTED PROOF

At Sydney on Monday 9 November 2015

The Committee met at 2.45 p.m.

PRESENT

The Hon. P. Green (Chair)

The Hon. C. Cusack
The Hon. G. Donnelly
The Hon. S. Farlow
Dr J. Kaye
The Hon. D. Mookhey

CHAIR: Welcome to the final hearing of the General Purpose Standing Committee No. 6 inquiry into vocational education and training in New South Wales. Before we commence I acknowledge the Gadigal people who are the traditional custodians of this land. I also pay respect to elders past and present of the Eora nation and extend that respect to Aboriginals who may be present or listening to this evidence today. This is the eighth and final hearing of this inquiry. Today we will hear evidence from Mr Phillip Clark, AM, Chair, NSW Skills Board, and representatives of the Audit Office of New South Wales, including the Acting Auditor-General. Before we commence I will make some brief comments about the procedures for today's hearing. In accordance with the Legislative Council's *Guidelines for the Broadcast of Proceedings*, only Committee members and witnesses may be filmed or recorded. These guidelines are available from the secretariat. While members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography.

I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside their evidence at the hearing. I urge all witnesses to be careful about any comments they may make to the media or to others after they complete their evidence as such comments would not be protected by parliamentary privilege if another person decided to take action for defamation. There may be some questions that a witness could only answer if they had more time with certain documents to hand. In those circumstances witnesses are advised that they can take questions on notice and provide answers by 18 November 2015. Witnesses are advised that any message should be delivered to Committee members through Committee staff. I now welcome our first witness.

PHILIP MARCUS CLARK, Chair, NSW Skills Board, sworn and examined:

CHAIR: Mr Clark, I am advised that you would like to make a short presentation to the Committee. Before doing that, I will table your opening statement so that Committee members have a copy of it in front of them. Are you happy with that process?

Mr CLARK: Yes.

Document tabled.

CHAIR: You may commence.

Mr CLARK: It was suggested that I should take the opportunity to give the Committee some information on the NSW Skills Board so that Committee members have a clear understanding of our role. The NSW Skills Board is an advisory board; it is not a governance board. The board was established in late 2013 to provide independent advice to the New South Wales Government on the vocational education and training [VET] system in New South Wales, and on how best to meet the skills and training needs of New South Wales industry, employers, regions and the economy. The NSW Skills Board was established following a review of its predecessor by Professor Peter Shergold, AC, who recommended an independent high level board reporting directly to the Minister with new membership and terms of reference.

One of the NSW Skills Board's most important functions is oversight of Smart and Skilled. This includes a requirement to support and maintain TAFE NSW as the public provider of VET across New South Wales. The board is made-up of individuals with strong knowledge of skills development and tertiary education, experience in market operations and an understanding of financial and project management and governance. The board has its own Act, the Skills Board Act 2013, which clearly states its functions, one of which is to provide independent, strategic perspectives to the Minister. Under the Act the board is subject to the control and direction of the Minister in the exercise of its functions, except in relation to the contents of any report, recommendation or advice made or given by it (clause 8 of the Act). The board is independent from the NSW Department of Industry. It has a memorandum of understanding with the department for the delivery of operational services. The Secretary of the department is an ex officio member of the board. The board's Secretariat services are based in the department but the board's Secretariat staff work to the direction of the board.

The board's approach to Smart and Skilled: In late 2013 and during 2014, in the lead-up to the introduction of Smart and Skilled, a major focus of the board was advising the New South Wales Government on the broad policy settings for Vocational Education and Training [VET] reform. A guiding principle was to ensure that training was linked to industry need; that consumers had a choice of quality providers; and that we retained budget neutrality. We tried to avoid the problems which we had seen occurring in some other jurisdictions. In particular, the board considered the following policy settings: the Smart and Skilled NSW Quality Framework; the NSW Skills List; the Independent Pricing and Regulatory Tribunal's [IPART's] recommendation on prices, fees and subsidies; and the application process for registered training organisations to become Smart and Skilled providers.

The board endorsed the Quality Framework and the NSW Skills List. Both were developed following extensive consultation with industry and training providers. The board was satisfied that both provided the focus and protections needed for high quality, responsive VET in New South Wales. In the case of IPART, the board saw merit in the IPART methodology but recommended a staged transition to full IPART-recommended fees, with lower fees in 2015. The Government accepted our advice. In the case of the application process for Smart and Skilled, the board approved the overall design but was not involved in the implementation of the application process.

Some key issues: As you know, Smart and Skilled was implemented from 1 January 2015. The board has been kept informed of the uptake of training under Smart and Skilled throughout the year. I want to stress that the role of the board is to provide strategic advice on broad policy settings. The board is not responsible for translating policy parameters into operational mechanisms and has not been involved in the detailed implementation of Smart and Skilled.

We have heard concerns from providers, in particular with respect to aspects of the 2015 Smart and Skilled application process and the board is of the view that the cautious approach to the introduction of Smart and Skilled has over regulated the training market and this has particularly impacted in regional New South Wales. We have advised on a series of adjustments to free up the rules surrounding the management of financial caps, in particular in relation to apprenticeships and traineeships. More recently, the board advised the New South Wales Government to hold Smart and Skilled fees at 2015 levels for 2016 and to cap traineeship fees at \$1,000. The Minister, the Hon. John Barilaro, announced the 2016 Skills List, together with prices and fees, last week. As indicated above, our advice has assisted the Minister with formulation of policy adjustments to provide greater flexibility for industry, consumers and providers, to ensure that students and employers can choose the provider they want.

Finally, the review: Consistent with the decision of government, the Minister has also delegated the Skills Board the oversight of the one-year implementation review of Smart and Skilled. This commenced in July this year. Stage one of the review has focused on the Smart and Skilled application, assessment and allocation process. The board will consider the review's recommendations at its meeting later this week and will forward advice to the Minister and the New South Wales Government after that.

I am happy to answer any questions.

The Hon. CATHERINE CUSACK: I understand that the NSW Skills Board last week tabled its annual report out of session of the New South Wales Parliament. We are just checking because it is not on your website and it should have been published on your website. It has not been available to members of this Committee. We are checking on the correct copy. Do you have any idea as to why it was late and why we cannot seem to access copies?

Mr CLARK: I can find out for you. We sent it to the Minister. It is up to the Minister to approve it. But he has tabled it, has he?

The Hon. CATHERINE CUSACK: Yes, it was reported last week but it has not been published.

Mr CLARK: I will take that on notice and let you know.

The Hon. CATHERINE CUSACK: Obviously we are anxious to see it because it would have assisted our preparation for today.

Mr CLARK: Yes, marginally I would suggest.

The Hon. CATHERINE CUSACK: I start with the State Plan and the suggestions in the Auditor-General's Performance Report. From the look of it, the priorities you have just outlined to us do not include the State Plan priority which is:

To increase the proportion of working-aged people with post school qualifications at Certificate III level and above, by 50 per cent by 2020.

The reforms have actually seen a reduction and in the Performance Report it says that the Government is not going to achieve that outcome in its State Plan, based on the current approach. What you have just outlined to us still does not incorporate the Government's objectives in the State Plan into your priorities. Can you explain why the State Plan's priority is not considered a priority by your board?

Mr CLARK: The State Plan priorities are going to form the basis of the Strategic Plan that we are currently preparing. In fact, we are talking about that again this week and you will find in the Auditor-General's remarks he emphasises the importance of that being done. We expect to have that completed fairly early next year and that will reflect, not just that one objective of the State Plan but all the relevant objectives of the State Plan.

The Hon. CATHERINE CUSACK: I am trying to understand how the board can just miss the Premier's priority for vocational and educational training.

Mr CLARK: We are not dismissing it at all.

The Hon. CATHERINE CUSACK: No, missed it, in the objectives. The objectives you have outlined do not include that objective.

Mr CLARK: The objectives that I have outlined are very much a summary. The same as the governance arrangements go to a page and a half; I have just mentioned a couple. It is certainly on our agenda that is for sure.

The Hon. CATHERINE CUSACK: The board saw merit in the Independent Pricing and Regulatory Tribunal [IPART] methodology, but recommended lower fees for 2015 and recommended it again for 2016. Does that not mean that there will be fewer places?

Mr CLARK: No, it does not necessarily follow that recommending lower fees means there will be fewer places. We recommended that the implementation of the fees at the level that IPART was talking about be staged over a longer period of time and some additional funding became available.

The Hon. CATHERINE CUSACK: What is the board's strategy for increasing places?

Mr CLARK: I will take that one on notice until we have prepared it. We do not have the answer to that yet.

The Hon. CATHERINE CUSACK: That is what the State Plan wants us to do.

Mr CLARK: There are three other things the State Plan wants as well. They are all interrelated.

The Hon. DANIEL MOOKHEY: I have a question that arises somewhat from your opening statement and somewhat from my colleague's questions. You recommended lower fees in 2015. That is right, is it not, and the fees should be set at 2015 and 2016 levels? What is the board's view about what happens in 2017?

Mr CLARK: We have not formed a view on that yet but we are still comfortable with the IPART approach. The level of those is not something we want to set this far in advance.

The Hon. DANIEL MOOKHEY: In providing advice to IPART about lower fees in 2015 and presumably freezing them at that level in 2016, was that designed more as advice for a transitional period or was that in line with thinking it should be permanently at that level, notwithstanding the natural result of the IPART methodology?

Mr CLARK: The advice was to government and it was very much transitional, yes.

The Hon. DANIEL MOOKHEY: It is transitional advice?

Mr CLARK: Yes.

The Hon. DANIEL MOOKHEY: Should the full application of the IPART methodology lead to higher fees in 2017 you feel that is a matter for Government to address?

Mr CLARK: I am not sure about that. It is a very complex issue. It may be higher fees in some areas and lower fees in other areas. We want to test the sensitivity points rather than making rules this far in advance that cause problems later.

The Hon. DANIEL MOOKHEY: The sensitivity points are factored into the IPART methodology, are they not?

Mr CLARK: Some of them are.

The Hon. DANIEL MOOKHEY: It is the case that the general preference would be to allow the methodology that IPART has developed to have its full impact?

Mr CLARK: To move towards it over a period. It may be that when we look at it, which will be this time next year, again, there are some issues that we want to move slowly on in 2017.

The Hon. DANIEL MOOKHEY: In your opening statement you said, "The board is of the view that the cautious approach to the introduction of Smart and Skilled has overregulated the training market. This has particularly impacted on regional New South Wales." Can you describe to us what you consider to be the cautious approach to the introduction of Smart and Skilled and can you specify what exactly you consider to be overregulated?

Mr CLARK: The cautious approach was to set caps for fees and regions—sorry, courses and regions. A cap was set for every course for every region. That overregulation—and I do not want to put that too strongly—has led to a pretty complex system where it is fairly hard for the market to work. It is particularly difficult in regional areas. We have made some suggestions that that concept, which was very much driven by budget neutrality, be relaxed now that we have a better understanding of what is happening out there.

The Hon. DANIEL MOOKHEY: Do you view that as the reason that the Committee has heard evidence about certain regions being under their caps and other regions being way over their caps?

Mr CLARK: I think it is part of the reason. It is not the sole reason but part of the reason.

The Hon. SCOTT FARLOW: Following on from that question, what do you think are some of the other reasons that has occurred?

Mr CLARK: I think there was a very cautious approach to probity issues, which is quite proper. I am not being critical of that. There was a very strong feeling from the people who implemented this that they wanted all the evidence that went into the process to be totally objective. In the world I come from—the commercial world—it probably would have made a bit more sense to allow some subjective elements in there. I understand their caution. While this was going on we were seeing absolute chaos happening in other States and that was the last thing we wanted.

The Hon. SCOTT FARLOW: Picking up on there being absolute chaos in other States and your view of the system in New South Wales being overregulated, what advice have you provided to the Government about what would be an optimal system to have in New South Wales at this stage?

Mr CLARK: Move slowly but still in the same direction. It goes back to the question that your colleague asked a minute ago. Get back to the basic objectives; keep them in mind but move slowly. It will take five years to do this. It is a massive change. To try to rush it and get it all in overnight is going to cause the sorts of problems that other States have seen.

The Hon. SCOTT FARLOW: What would be the policy mechanisms you have put in place to move slowly, as you see it?

Mr CLARK: We start with the basics, which were outlined; we start with the quality framework; we start with the skills list; we start with the modified IPART; we look at the objectives in the State plan; and we look at the sensitivities and the critical issues. For example, where do we need more skills, given where the economy is going? Then we build a system that moves towards that over a period of time. I think the importance, for example, of budget neutrality was perhaps overemphasised in the first year and led to a degree of caution. I think we are now comfortable that that problem is probably a stage further away and, therefore, we need it to lead less than it did last year. The other thing that is very important, and it is certainly my view and I think the view of the board, is the position of TAFE as the public provider. Government policy is to maintain the position of TAFE as the public provider and the major public provider. I think that is very important. As you well know, TAFE is going through its own significant change process at the moment. We need to see some of the outworkings of that change process before we move ahead too fast with Smart and Skilled.

The Hon. SCOTT FARLOW: In saying that, do you say there should be less contestable positions in the market?

Mr CLARK: I think over time we could move to more. Most of those should be positions that TAFE itself can contest. As it becomes a more efficient and effective TAFE it will earn its fair share.

Dr JOHN KAYE: Mr Clark, you are giving strategic advice to the Government. What, in your mind, should TAFE look like in five years time?

Mr CLARK: I think it will still be the major provider in New South Wales. I would hope that it would still be the major provider which means, in my simple terms, it will have more than 50 per cent of the market. I think it should earn all of its revenue in five years time. I do not think it is necessarily the case today, but in five years time it should.

Dr JOHN KAYE: When you say "earn all of its revenue", you mean in a contestable market?

Mr CLARK: Earn it in a contestable market.

Dr JOHN KAYE: I put to you, Mr Clark, that TAFE already earns every cent it gets.

Mr CLARK: Yes, and I would agree with that. Earn it in a contestable market.

Dr JOHN KAYE: You see no operational base funding [OBF], no community service obligations [CSO] funding?

Mr CLARK: I would hope in five years we could move away from the former. I am not sure about the latter. I would keep an open mind on that.

Dr JOHN KAYE: On the CSO?

Mr CLARK: Yes.

Dr JOHN KAYE: You see OBF disappearing?

Mr CLARK: Disappearing may be an overstatement, certainly redirected.

Dr JOHN KAYE: I will go back one step to where we are now. Your recommendation was that 2016 prices be held constant at 2015 levels.

Mr CLARK: Yes.

Dr JOHN KAYE: That also implies automatically that the Government subsidies were held constant at 2015 levels. That is indeed what happened, I am informed.

Mr CLARK: There were some minor adjustments.

Dr JOHN KAYE: For almost all courses, the subsidies were held constant. Are you aware of the evidence this Committee has received that many TAFE colleges are struggling to provide at that qualification price level?

Mr CLARK: Yes, I have seen that.

Dr JOHN KAYE: Are you concerned about that?

Mr CLARK: I am concerned about that. That is why I think we need a more efficient and more effective TAFE.

Dr JOHN KAYE: So the answer is not to increase the amount of money that is being given but to make TAFE look more like a private provider?

Mr CLARK: My priority would be the second, rather than the first; no, not like a private provider but to make TAFE more efficient and more effective.

Dr JOHN KAYE: What do the words "efficient" and "effective" mean?

Mr CLARK: I am struggling with that question. They mean what they normally mean.

Dr JOHN KAYE: Let us take the case of a totally deaf student whom we met in Lismore. It probably would have cost the State \$60,000 for him to obtain two sets of qualifications. Would you say it was inefficient to do that?

Mr CLARK: No.

Dr JOHN KAYE: So how is TAFE going to provide quality education for him without additional funds, without the level of funding it currently has?

Mr CLARK: That is what I said: through the community service obligation [CSO].

Dr JOHN KAYE: You think he should be funded through the CSO?

Mr CLARK: I think that is where it should come from, yes.

Dr JOHN KAYE: Not the additional loadings under Smart and Skilled?

Mr CLARK: Partly that.

Dr JOHN KAYE: You think it should be split?

Mr CLARK: Yes, but I am not going to give you percentages. Conceptually, the two things can lead to the right outcome for that student. On the Skills Board if there is one thing that is noticeable to me it is the concern for disadvantage. There seem to be contrary views in the market. I would like to make sure that they are corrected on the record. The Skills Board is very sympathetic to the needs of disadvantaged students, be they physically, mentally, socially or regionally disadvantaged.

The Hon. DANIEL MOOKHEY: Mr Clark, I turn to the quality framework. I am looking at the quality framework as described by the State Training Services [STS]. I am happy to table it, if anyone would like me to.

CHAIR: Yes.

The Hon. DANIEL MOOKHEY: As I understand it, in the process of selecting providers the quality framework calls for eligibility to be assessed first. There must be an assessment of an organisation's capacity and capability and its past contractual compliance and performance. Is it the case, as far as you are aware, that the majority of the criteria are applied in the online system that State Training Services run?

Mr CLARK: It is my understanding that they do, but I have no detailed knowledge of it.

The Hon. DANIEL MOOKHEY: In terms of the eligibility criteria, would you tell me whether this is consistent with the advice the Skills Board provided: It has to be a National VET Regulator registered training organisation, it must include qualifications on the skills list, and its record of contractual compliance with previous New South Wales Government contracts and record of regulatory compliance must be checked. There are a couple of exclusions. Does that sound consistent with the advice, loosely speaking, or would you like to see the document?

Mr CLARK: From recollection, that is right. There was an exclusion for organisations not based in New South Wales.

The Hon. DANIEL MOOKHEY: Do you think it is a problem that the criteria omit any aspect of widespread knowledge of the provider in the industry?

Mr CLARK: Yes, I agree. I think that is an omission.

The Hon. DANIEL MOOKHEY: Would it surprise you to learn that the omission of that criterion led to circumstances where the Master Builders Association appeared before the Committee and said that it had never heard of the provider that received the largest number of caps for the construction industry?

Mr CLARK: That surprises me, yes.

The Hon. DANIEL MOOKHEY: What exactly is the review process for the Skills Board's undertaking with respect to the quality framework?

Mr CLARK: I will make a general comment on that first. We were part of the Department of Education. We are now part of the Department of Industry. One of the propositions that we have put strenuously since we were first formed is that the focus should be primarily on students and industry, and then on providers. The Department of Education's approach is provider focused. In that department the world begins and ends with providers. Industry is totally different. The move to that department and the elevation of the importance of consumers and industry will make a big difference in the way we go forward.

The Hon. DANIEL MOOKHEY: But you maintain the quality framework.

Mr CLARK: We do. We will be reviewing it early next year.

The Hon. DANIEL MOOKHEY: Do you expect that the review of the quality framework will have an impact on State Training Services in time for next year's contracts

Mr CLARK: Yes. Our timetable is intended to accommodate that outcome.

The Hon. DANIEL MOOKHEY: Is the Skills Board involved in the post-contract period of quality assessment and enforcement under the quality framework?

Mr CLARK: Only in a broad oversight capacity. I recall that we looked at the ability of the department to go in unannounced to audit. Our oversight capacity was very broad and only in relation to that particular issue, which somebody raised as a legal problem. We have not had careful oversight of that.

The Hon. DANIEL MOOKHEY: Presumably the board pays attention to the Australian Skills Quality Authority's [ASQA] impacts on the sector.

Mr CLARK: Yes.

The Hon. DANIEL MOOKHEY: The Committee heard evidence earlier in the inquiry that the New South Wales Government maintains independent regulatory authority, separate from ASQA, through its contract framework—that is, the contract is directly with the provider.

Mr CLARK: Yes.

The Hon. DANIEL MOOKHEY: Do you think that is adequate?

Mr CLARK: It is better than nothing.

The Hon. DANIEL MOOKHEY: Presuming that you can have more than nothing, do you think that is adequate?

Mr CLARK: I think it could be improved. There is always room for improvement. It is the right basic starting point. It is the right mechanism. I am not able to comment on whether it is being used appropriately.

The Hon. DANIEL MOOKHEY: Generally, do you believe that contract based remedies in the event of non-performance or underperformance are adequate?

Mr CLARK: Provided that those remedies are appropriately used.

The Hon. DANIEL MOOKHEY: Has the Skills Board been able to see the quality standards in the contracts? Is that something you would consider to be far too operational?

Mr CLARK: That is certainly operational.

The Hon. DANIEL MOOKHEY: The extent to which the quality framework that you have developed can be applied by the STS is according to the extent to which that framework is replicated in the contract. ASQA cannot enforce the quality framework.

Mr CLARK: We would expect that to be replicated in the contract. I cannot say that I have checked, but I am certain that the intention is that that be replicated in the contract.

The Hon. CATHERINE CUSACK: I understand that in February you commenced a review of Smart and Skilled.

Mr CLARK: Yes. The formal review commenced in July.

The Hon. CATHERINE CUSACK: Okay, but you undertook responsibility in February?

Mr CLARK: It was fairly difficult because there was the election in March. We started talking with Minister Piccoli. He was not quite sure of the form he wanted. By the time we got around to it, Minister Barilaro was in charge and we agreed the precise terms of reference with him. Our consultants started working in July.

The Hon. CATHERINE CUSACK: The report will be available this week.

Mr CLARK: Yes.

The Hon. CATHERINE CUSACK: Is it correct that you have already given advice to the Minister on Smart and Skilled for 2016?

Mr CLARK: Yes.

The Hon. CATHERINE CUSACK: What did you use, given that the review is not available? One would think the review would inform the advice to the Minister.

Mr CLARK: That is a good question. The review has two parts. The first part of the review, which will report later this week, is on the provider application process, and only on that. The second part of the review, which we will probably do next year, is on the broad policy settings. That goes back to your question about Government objectives. I would think that we would see that completed from the middle to the end of next year. We have been very conscientious in trying not to make big policy change decisions without seeing that review. In relation to the provider application process, we felt we had enough information from the feedback we had received from the market to make relatively minor adjustments that have freed up the system a little and seem to have been well received.

The Hon. CATHERINE CUSACK: We have found a copy of the annual report, which refers to the fact that following the allocation of Smart and Skilled funding there was an end-of-year reconciliation of current commitments, and it identifies additional funds available for allocation under Smart and Skilled. It then says, "The Minister, in 2014, announced an additional \$57 million in Smart and Skilled funding." Was that \$57 million the amount that was unallocated?

Mr CLARK: That was the additional amount that was budgeted but not spent from the previous period, yes.

The Hon. CATHERINE CUSACK: It seems an enormous sum of money.

Mr CLARK: Yes, it seemed like a big amount to me too. I found out about it when one day when we went to a meeting we were told that there was \$57 million there.

The Hon. CATHERINE CUSACK: It further says that this "provided training for around 16,000 students". So it is a lot of money.

Mr CLARK: Some of the initial feedback we got was in particular in relation to very small caps. Some courses in some regions were capped at such a small amount that it just was not worthwhile teaching them. It sounds pretty dumb, but that was the fact of the matter.

The Hon. CATHERINE CUSACK: We have strong evidence from private providers around that.

Dr JOHN KAYE: Sorry to interrupt, but, Mr Clark, do you mean it was dumb to do it in the first place or dumb that the private providers were not able to do it?

Mr CLARK: No, it was dumb to set up a system that you know is not going to work.

The Hon. CATHERINE CUSACK: Yes.

Mr CLARK: So we saw a couple of those areas that we could immediately fix with this relatively small allocation to any particular one of them, and we used that money to do that. I would have to say that, as the chair of the board, I was not particularly happy about it. It was not a process that I would like to see normally occurring but that is the way it happened. It seems to have done a pretty good job actually.

Dr JOHN KAYE: Did the board get involved in choosing which providers got that money or was that done by State Training Services?

Mr CLARK: No, it was done by State Training Services.

Dr JOHN KAYE: But you set the parameters?

Mr CLARK: We set the parameters; that is correct.

Dr JOHN KAYE: What parameters did you set?

Mr CLARK: Basically to look at those ridiculously small caps and to look at some of the areas where courses in regions were not provided for at all because no provider had bid. I would have to go back and look into the detail. I am happy to take that on notice.

Dr JOHN KAYE: Can you provide the details of that on notice?

Mr CLARK: Yes, I am happy to provide that.

The Hon. CATHERINE CUSACK: Coming back to the \$57 million, were you advised on the actual source of that \$57 million? Was all of it from contracts handed back or were there different components that came to a total of \$57 million?

Mr CLARK: It was out of a prior period, as I recall. Again, I would like to take that on notice.

The Hon. CATHERINE CUSACK: Yes, thank you.

Mr CLARK: My recollection is that it was from the previous year rather than the current year.

Dr JOHN KAYE: Do you mean the previous financial year?

Mr CLARK: Yes.

Dr JOHN KAYE: That is complex because it is a half year of Smart and Skilled. So what you are saying is that it is for the first six months of Smart and Skilled?

Mr CLARK: Yes, but I would like to take that on notice.

The Hon. CATHERINE CUSACK: Thank you.

The Hon. SCOTT FARLOW: Did you receive any advice in terms of a breakdown of where that was coming from and which providers?

Mr CLARK: No.

Dr JOHN KAYE: But you knew what type of providers and what type of markets it was coming from? You just told us that it was from the small ones.

Mr CLARK: No, that is where we allocated it.

Dr JOHN KAYE: Oh, so that is not where it came from?

Mr CLARK: No, that is not where it came from at all; that is where we allocated it.

Dr JOHN KAYE: Do you have any characterisation of where it came from?

Mr CLARK: No.

Dr JOHN KAYE: Are you seeking any characterisation of where it came from?

Mr CLARK: No.

Dr JOHN KAYE: Sorry, I have one last question.

The Hon. CATHERINE CUSACK: Dr Kaye, if I could continue, I am asking questions on the same issue.

Dr JOHN KAYE: Okay.

The Hon. CATHERINE CUSACK: Thank you. Did you get any information about particular regions where the underspend was larger?

Mr CLARK: Do you mean where the need or where the money came from?

The Hon. CATHERINE CUSACK: I mean where the money came from.

Mr CLARK: No, we did not.

The Hon. CATHERINE CUSACK: When you talked about overregulation you talked particularly in relation to rural and regional communities. So what led you to think it was particularly impacting on those communities? Did you have any evidence given to you that said these places were being impacted?

Mr CLARK: It was in the feedback we were given.

The Hon. CATHERINE CUSACK: Was that from the private providers?

Mr CLARK: It was from TAFE as well. Bear in mind that all of that feedback was coming through State Training Services. I just want to make sure that we are not confusing two things here. We went into a meeting in November 2014, or whenever it was, and were told that there was \$57 million that we had not spent from the previous year and which was available to allocate. The question was: How should we allocate it? The role of the Skills Board in that process was to advise the Minister on what we thought was the best way to allocate it. We did not do a witch-hunt on where it came from; we did not inquire into why it was there at all; we just advised the Minister on what we thought was the best way to allocate it.

The Hon. CATHERINE CUSACK: In terms of the feedback that you got from providers, both public and private, how did you get that feedback?

Mr CLARK: We have a provider reference group, which meets two or three times a year. It is very well attended. It is a combination of TAFE, private providers, community providers and the enterprise people. We had a very pretty long meeting with them fairly early on in the process, and I think we had two subsequent meetings. So we have a fairly good information flow. I have not read right through the report yet and I would prefer not to comment on the report that has not been given to the Minister, today. But the impression I have, just from looking at some of the bits, is that the information that we were getting from that provider reference group, and indeed from our industry reference group, was pretty good and pretty close to the money.

The Hon. CATHERINE CUSACK: So the provider reference group report has gone to the Minister today?

Mr CLARK: No, the report that will go to the Minister after we look at it is a report which has been done by a consultant called the Nous Group. It is called the stage one review report. The provider reference group simply gave us anecdotal information on what was happening out there in the market. I attend those meetings with Professor Denise Bradley, who is the chair of that group. So it is an opportunity for that group of providers to come and tell the Skills Board directly, not through the department, what is going on. In addition to that, we got, and we continue to get, a lot of information from State Training Services about what is going on.

The Hon. CATHERINE CUSACK: Did you have a perception that there was a gap between the principles that you had recommended and how it was actually being implemented?

Mr CLARK: I would not describe it that way. I would describe it more as we looked at the overview of what the application and contracting process was and it looked as though it covered off most of the big issue objectives. But we did not get down into the detail of how it should be implemented—that was left to State Training Services.

The Hon. CATHERINE CUSACK: Did you ever see the algorithm that they used?

Mr CLARK: No.

The Hon. CATHERINE CUSACK: We have received advice from State Training Services that that algorithm was a matter for the Skills Board. I must have misheard that I guess.

Mr CLARK: No, there is absolutely no way. The Skills Board has never investigated the algorithm. We certainly did not mandate the algorithm and we did not mandate implementation. We gave them the parameters and said, "Go away and do the exercise." A lot of things we found out about—for example, the overreliance on probity. They did not, for example, I think take enough account of what a provider's history was. They were more interested in sort of number scoring each provider. That is understandable—it was the first time. But it is not something we would like to see repeated in future processes, and we have made that known. We do not get into that sort of detail. We certainly did not look at the algorithm.

The Hon. CATHERINE CUSACK: We heard one very worrying anecdote about TransGrid workers with a very specialised skill set which they need to work on high-voltage power lines. Only one company offers the training in New South Wales. Their head office is in Melbourne so they were excluded from the tender process. Somehow Tamworth TAFE offered the course, even though it has no staff and no facilities to do so. It is still offering it but it cannot enrol anybody because it cannot deliver it. We heard stories of TAFE staff enrolling themselves.

Mr CLARK: That sort of thing is of concern. But we cannot get down to that sort of detail. They have to do the implementation and they have to do the best job they can—that is not something that we should be mandating. I certainly would not be keen to open up the floodgates to interstate providers because of that one issue. If we have to tackle that one problem—and I do not think it is our job; I think it is the department's job—then let us tackle the problem.

The Hon. CATHERINE CUSACK: The course was being delivered in Sydney, and it was the only course. So now there is no course at all. All this has done is to wipe out the only course we had.

The Hon. DANIEL MOOKHEY: I return to your comment about the overemphasis on probity. Can you give us more detail as to what you mean by that?

Mr CLARK: Yes, and this is anecdotal. We will know more when we get the Nous review because I think it is something they looked into. When they asked providers to provide information they basically asked them to fill out a form—let me use that analogy—and they were told they were not allowed to tell them anything else. Providers, for example, who had a fantastic track record in the region—got on particularly well with a whole lot of employers in that region—were not allowed to say anything about that. They could only say what was in the form. I have dealt with probity people in the commercial world and in government and I know what they are like, and that is what always happens. I think there was so much concern about the process being correct, objective and proper that they lost sight of the big picture.

The Hon. DANIEL MOOKHEY: That perhaps explains what you said earlier about overemphasis on objective at the expense of subjective. Is that what you mean?

Mr CLARK: Yes.

The Hon. DANIEL MOOKHEY: What are the additional subjective factors you think should be considered when granting contracts or caps to providers?

Mr CLARK: Number one is track record.

The Hon. DANIEL MOOKHEY: In respect to what—completion?

Mr CLARK: Completions, yes.

The Hon. CATHERINE CUSACK: And employment outcomes.

Mr CLARK: Can I make a comment on that; I am really pleased you raised it. The other big shift we have to make in this sector—the first big shift is the shift I mentioned before: We have to get away from thinking about providers, to thinking about students and employers. The other big shift we have to make is to stop thinking about enrolments and start thinking about completions and the impacts and consequences from those completions. Sorry, I interrupted you but I wanted to get that off my chest.

The Hon. DANIEL MOOKHEY: I am glad you did. Do you think there are other subjective factors that should be brought into consideration? Incidentally, I am not sure completion rates are necessarily subjective as I understand that factor was factored in.

Mr CLARK: I was not putting them down as subjective. Going back to your question, I think track record and lack of track record. Why would you mandate or contract a whole lot of suppliers who have never supplied a course in a region when there are people who have done it before? It was an example of when the process got in front of the outcome.

The Hon. SCOTT FARLOW: Do you know how they got to that process? For instance, we heard evidence from a provider in Newcastle who were given a contract for the Riverina they never sought and had no ability to provide. Do you have any idea how they came to something like that?

Mr CLARK: No, I will probably have a better idea when I have finished reading the Nous report because they have reported extensively on it.

The Hon. DANIEL MOOKHEY: In respect to other subjective factors, you emphasise quite rightly the outcomes for students. Are you aware of whether data is collected on post-qualification employment as a student outcome by provider? Are you aware of any data that not only tracks inputs but is more outcome-oriented?

Mr CLARK: In the allocation process?

The Hon. DANIEL MOOKHEY: Yes.

Mr CLARK: I cannot answer that, I am sorry. I have never actually seen the application form.

The Hon. DANIEL MOOKHEY: In terms of the advice the Skills Board provided for the overall design of the market, how much of that advice emphasises student outcomes, student performance, teaching quality and aspects like that? Looking at the quality framework, it seems like—as you rightly point out—it is heavily capability of provider-focused as opposed to what actually is produced.

Mr CLARK: In the Skills List you start to see some evidence of thinking about what is happening to trainees and employers. As I said, it is a change in direction which I am extremely happy about. Moving from Department of Education to Department of Industry is the first big step in the process, for my money. It is a different thought pattern. You can see it from my position; the way they think about things is quite different and much better. I think it is a really good move.

The Hon. DANIEL MOOKHEY: I was going to turn to a different subject but I leave it to my colleagues to take this up, if they want to.

The Hon. CATHERINE CUSACK: I would like to return to what I thought was laudable—recalibrating the system to focus on the needs of the students. Seeing the reform of TAFE as a five-year process, it is an enormous exercise. Do we not have to worry about that five-year cohort of students trying to go through the system while we are doing things that affect students to help TAFE make it through? Is there enough funding for this or does there need to be transitional funding to protect the current crop of students from the unintended adverse effects of the reform process?

Mr CLARK: I think part of the modification of the Independent Pricing and Regulatory Tribunal [IPART] recommendations was built around exactly that concern. It is not a question of funding; it is a question of how it is applied. But yes, and that is something that we were concerned about. Of course, this process is going to take a while and it was extremely confusing for students who were partway through when everything changed. The ones who were nearly finished were okay, but for the others it was difficult. But I still think it is a change worth making.

The Hon. CATHERINE CUSACK: The idea of organisations reporting not just completions but employment outcomes—a number of providers who spoke to us who seemed to have lost all their funding told us they had the highest employment outcomes—do you think that would be a positive thing to factor into the tendering process?

Mr CLARK: Yes, that would be a very positive thing. If I could add, the other role of the Skills Board—we tend to have focused on only one today—is to do some seriously good research. Our focus is going to be very much on outcomes for students, employers and the economy. I would like to see that occupying about 50 per cent of our time; at the moment it is not. We have formed a committee of the board—it is the only committee of the board that we have—with four of my colleagues with the best understanding of the sector to drive that research committee. I think it will produce some exciting outcomes.

The Hon. CATHERINE CUSACK: I would like to ask about regional skills lists because they contain invaluable data in terms of making sure our vocational education system interfaces with our economy to get employment outcomes. Can an ordinary person like me get their hands on that regional skills list?

Mr CLARK: You can get your hands on the Skills List—there is only one. It is the same list that applies across New South Wales, to every one of the 15 regions.

The Hon. CATHERINE CUSACK: So it is not broken down on a regional level?

Mr CLARK: No.

Dr JOHN KAYE: If I may, I think you are asking the wrong question. The Skills List is the list of subsidised skills.

The Hon. CATHERINE CUSACK: The skills shortages.

Dr JOHN KAYE: I think you are asking how the caps were allocated or how much of each qualification was allocated to the regions. Is that what you are asking?

The Hon. CATHERINE CUSACK: Yes, my understanding is there was research to look at skills shortages and demand by region.

CHAIR: Regional skills profile.

The Hon. CATHERINE CUSACK: Thank you.

Mr CLARK: I think you are quite correct. Yes, you can get that information from STS—or I know we could if we asked, so I am sure you can if you ask.

The Hon. CATHERINE CUSACK: This is valuable information for everybody—councils and a whole range of programs—that can provide many things. Is it alright if I ask about schools? A number of schools are offering vocational education courses and have received enormous grants for infrastructure. For example, at Ballina High School a big commercial kitchen has been installed and we heard evidence from a private school in Shoalhaven. Has the fact that a large number of students undertaking vocational education at schools been factored into the board's thinking?

Dr JOHN KAYE: This is the Vocational Education and Training in Schools [VETiS] program.

Mr CLARK: Yes, VET in Schools. Yes, we are right across that. We provide a recommendation in relation to funding that each year and I have said I am not going to provide it again next year until I see a proper study of the outcomes from that process and results we are getting.

The Hon. CATHERINE CUSACK: One Anglican school was completely defunded so there are students halfway through courses and the school has a \$10 million commercial facility funded by the Commonwealth.

Mr CLARK: We approve the lump sum that goes into VET in Schools, which comes out of the Federal money that comes into the State. We approve a lump sum that is then distributed by the Department of Education, I think.

The Hon. CATHERINE CUSACK: That must be for government schools. Would that be right? They felt that schools had been forgotten.

Dr JOHN KAYE: The money you are talking about is Federal Government money which was under another program. I think there are a number of different things here. One is the capital funding that came from the Federal Government.

The Hon. CATHERINE CUSACK: Yes.

Mr CLARK: The infrastructure money would not be part of what we—

The Hon. CATHERINE CUSACK: I realise that they are disconnected but it just seems a pity not to get any Smart and Skilled funding to support courses. The school lost its Smart and Skilled funding. I realise that they are not connected but the fact is that the school has a lot of infrastructure in place—

CHAIR: Can I just add that the Committee just visited Dubbo. One of the issues there was the ability for the students to be trained. They come in by bus from rural areas. They do not need their P-plates. They do not need mum or dad to drive them in. The venue was there and the infrastructure was there but the funds were not there. It seemed a real shame that they lost that capacity.

Mr CLARK: Are you talking about VET in Schools students?

CHAIR: Yes.

Mr CLARK: We have no oversight and no direct involvement in that at all, other than being asked, once a year, to approve the sum of, I think, \$11 million or \$12 million, which goes to the Department of Education to run the Vet in Schools process.

The Hon. SCOTT FARLOW: You were saying before that you would not approve that next year unless you saw outcomes coming from that. Was that right?

Mr CLARK: I want to know what we are getting for our money, yes.

The Hon. SCOTT FARLOW: What are you doing to evaluate that?

Mr CLARK: Our secretariat is going to do a fairly detailed research study on it. A lot of research has been done on it. It needs to be pulled together and presented to us. There are different views. Some of my board members say that it is the best thing since sliced bread; others say it is a complete waste of money. I do not know, but I want to know.

The Hon. CATHERINE CUSACK: Are you familiar with the fact that Smart and Skilled funding is going to those students in schools? They have to apply for Smart and Skilled funding.

Mr CLARK: No, I was not aware of that. That is news to me.

CHAIR: The Hon. Greg Donnelly just wants to draw attention to this issue.

The Hon. GREG DONNELLY: I apologise for being absent at the commencement of the hearing. I am trying to align something you have just said with a statement which is contained in the annual report on page 15. On page 15, half way through the second paragraph in the second column it says, "The board noted that a review of board funding for VET for School students will be undertaken and a proposal presented to the board in the second half of the year. The board also agreed to provide funding to the NSW Training Awards." Does that align with what you have said? Just to be clear, are we talking about the same thing?

Mr CLARK: That is the review that I want to see done. I would have much preferred it to be done in this calendar year but it is going to be done in the first half of 2016.

The Hon. GREG DONNELLY: So the timing of it will be the first half of next year. Is that what you are saying?

Mr CLARK: Yes. We have endorsed the funding for 2015. I said, "I am not going to do this again until you tell me what is happening with the money."

The Hon. GREG DONNELLY: I just wanted to be perfectly clear.

Mr CLARK: We are now all wound up. We are signing off—I think it is on Thursday—on a proposal to bring all the research together and get a really good look at it.

The Hon. GREG DONNELLY: Who is the lead researcher or organisation doing this work?

Mr CLARK: We have not made that decision, but the department will be looking at pulling together the bits and pieces. We will appoint somebody through the research committee. They will make a decision on who and how much. We do not know, yet.

CHAIR: Do you hold the view that the schools based apprenticeship is fruitful? Talking about getting value for money, it seems to us that it addresses a lot of skill issues. There are some square pegs in round holes out there and this school based apprenticeship seems to be very functional.

Mr CLARK: I am not an expert on VET. I do not pretend to be. I am picking it up pretty fast. When I go to an awards night and I see kids who have excelled in VET in Schools I get really excited about it. Then I read a report—we have a researcher called Buchanan coming to speak to us about it on Thursday—that says that VET in schools is a program which has not led to students doing what they have learnt at school. So if they go to VET in Schools and do a cooking class they may end up doing hairdressing. That rang a bit of a bell.

In our board papers, I read some reports—from 2003 and 2007, I think—from Melbourne University saying, "VET in Schools is the best thing that has ever happened; the outcomes are fantastic." I do not know the answer but I want to know the answer before I am asked to commit another \$11 million or \$12 million of public funding. That is why I have been—

CHAIR: Certainly, with the progression of the school leaving age to 17, it is withholding a lot of students who would probably jump out of school and get into something. So surely VET in Schools and school based apprenticeships is the way to go, because those kids are connecting. Not only that; the very important issue here is that the accessibility of the school via bus—they can participate and then go home on the bus—makes it incredibly attractive. You can do something for these kids that may not be academically led.

Mr CLARK: Instinctively, I agree with you but I will know a lot more this time next year.

The Hon. DANIEL MOOKHEY: Thank you again, Chair and Mr Clark. When you say that the board saw merit in the IPART methodology, I presume they created the methodology and showed it to you, and you said that it had merit. You did not create it, did you?

Mr CLARK: It is a pretty thick document. I read through it before I got appointed. I cannot say that I would do that again. There was logic in it. I read such things as a lawyer. The logic flowed.

The Hon. DANIEL MOOKHEY: The board did not develop that methodology, did it?

Mr CLARK: No.

The Hon. DANIEL MOOKHEY: Does the same apply to the quality framework? You said that the board endorsed the quality framework. Was that developed by the department?

Mr CLARK: That was presented to us by the department. From memory, we made some changes, but I would not describe them as fundamental.

The Hon. DANIEL MOOKHEY: I was wondering about the extent to which the quality framework aligns with the IPART model. That obviously determines whether or not those quality standards can be funded. One of the criteria that STS says they include as part of the quality framework is the experience of management, administrative staff, as well as trainers and assessors. We have heard an overwhelming amount of evidence from a whole bunch of directors at TAFE institutes that say that on the basis of the methodology and the way the IPART model works, they cannot fund the high-quality teachers. Do you agree with that, or do you think that is wrong?

Mr CLARK: I do not have a view on that. It is not our role to get into the investigation of TAFE and the TAFE reforms.

The Hon. DANIEL MOOKHEY: Really?

Mr CLARK: Yes. We are very keen to stay out of that.

The Hon. DANIEL MOOKHEY: You obviously have the quality framework. You do not think teacher quality is something that should be part of—

Mr CLARK: We do not talk about TAFE in the quality framework.

The Hon. DANIEL MOOKHEY: You talk about VET quality framework, don't you?

Mr CLARK: Yes, but we do not talk about TAFE. We do not want to distinguish TAFE.

The Hon. DANIEL MOOKHEY: I am not distinguishing TAFE, either.

Mr CLARK: It is not our job.

The Hon. DANIEL MOOKHEY: I am more than happy to broaden the question so that it includes private providers and the market at large.

Mr CLARK: Okay.

The Hon. DANIEL MOOKHEY: Do you think that teacher standards and teacher quality assessment ought to be part of that quality framework?

Mr CLARK: Absolutely.

The Hon. DANIEL MOOKHEY: Do you think it is?

Mr CLARK: I would be surprised if it was not.

The Hon. DANIEL MOOKHEY: Are you aware of any mechanism by which any body—the Government, your body or any other body—assesses the quality of the staff, by provider or by RTO?

Mr CLARK: We certainly do not. I would assume State Training Services [STS] does that, if somebody does.

The Hon. DANIEL MOOKHEY: Would it surprise you if I told you that they do not?

Mr CLARK: The NSW Skills Board certainly does not. That is implementation; it is not what we are there to do.

The Hon. DANIEL MOOKHEY: One of the criticisms we have heard of the IPART methodology is that it is a one-size-fits-all solution and that it does not allow diversity, innovation or new methods to be tested, because they cannot get funded. Do you put any store by any of these criticisms? I congratulate you on being one of the few people who has had access to the full IPART methodology, which we cannot seem to access.

Mr CLARK: Having read it is an even bigger achievement.

The Hon. DANIEL MOOKHEY: That is even better.

Mr CLARK: I will give you my personal view—nothing to do with the Skills Board. When I read it I thought, "This makes sense." It was a little bit too much focused on the pro forma student, the pro forma teacher and the pro forma process, but you have to have a starting point somewhere. After I had read it I felt that at least they had come up with a starting point that made some sense and which you could justify. But when we started to look at some of the results of applying that in a very rigorous sense, we saw fees—particularly for disabled students—leaping up too fast. We saw apprentice fees going up much faster than we thought they should. We should have picked up at the same time that traineeship fees were going up faster than they should. We said, "This thing needs to be mellowed a little bit." The practical out-workings—what it produced—were not out-workings that we were comfortable with so we said, "Take a bit longer to do this." That is how we have slowed the process down. We have also slowed the process down where we have capped some things. For example, the cap on apprentice fees of \$2,000 and the cap on traineeships of \$1,000. If you have not got apprentices and trainees going through the system you are in big trouble.

The Hon. DANIEL MOOKHEY: I accept the fact that you provided advice in 2015 and 2016 but I am just going to the IPART methodology that is likely to apply in full from 2017 onwards. The disability loading is an interesting one. We have heard evidence about what that 15 per cent loading includes and how it is calculated. The cost model that underpins it is not reflective of the cost of providing that level of support regardless—

The Hon. CATHERINE CUSACK: Sorry, for TAFE.

The Hon. DANIEL MOOKHEY: For TAFE. We have not heard evidence about how it is being provided in the private sector but it applies equally to the RTOs.

The Hon. CATHERINE CUSACK: No, they did not say that.

The Hon. DANIEL MOOKHEY: I am aware of that but in respect to the evidence that we received about the adequacy of that, do you have views on any of that? You just said that the fees skyrocketed, which implies that—

Mr CLARK: No, we stopped them skyrocketing is what I said. Recently we have said there are no fees for disabled people. We have cut them out completely. Whether the compensation that is paid to the providers is adequate is not something that we have looked at or that I can comment on.

The Hon. DANIEL MOOKHEY: Do you think it is something that the Skills Board—

Mr CLARK: Yes, and if you have dug something out there we can hear about it and we will take a look at it.

The Hon. DANIEL MOOKHEY: You might want to give a similar answer but do you think the Aboriginal and Torres Strait Islander loading is adequate or also something that the Skills Board would like to have a look at?

Mr CLARK: I think it is something we would like to keep reviewing, yes. We need some evidence to work on for that, but that is the sort of thing I mean by research. I would love to let some really good researchers loose on some of that rather than just having it come to us through the department or through State Training Services. No disrespect to the department at all, but the value of external research and external questioning is well and truly demonstrated in my mind.

Dr JOHN KAYE: Can I take you to a couple of things you have said. The first one is the issue of assessing providers on the basis of completion rates or even indeed on the basis of subsequent employment outcomes. Are you not concerned that therefore you will encourage providers to only take on students who will complete? In fact, we heard evidence in Newcastle of one particular RTO who had a 100 per cent completion rate and boasted about it. It was very exciting until we realised that in fact he cherrypicked his students and he would not take on a student who he did not think could complete. Yet we speak to TAFE teachers who talk all the time about the cases they take on that they do not know whether those people will complete but they know that along the way they are going to get significant skills and increases in their capacities to perhaps not complete that particular course but maybe another course. Are you not worried that by measuring purely the microeconomic outcome of completion rates you will lose all the other stuff?

Mr CLARK: I do not think I said that I want to measure or allocate based on completions. If I did I withdraw it. But I do think the whole system to date—as it has had too much focus on providers and not enough on students and employers—has had too much focus on enrolments and not enough focus on completions and outcomes. That was the broad sweeping statement.

Dr JOHN KAYE: You want to shift the reward base. You are talking about a market here and the only instrument you are prepared to use in general will be the market rewards that are available.

Mr CLARK: No, I did not say that at all.

Dr JOHN KAYE: There are other rewards, but certainly you want to shape the market to focus on completions.

Mr CLARK: I want the market to at least have completions in there as one of the issues. It might be enrolments and completions. The situation that you outlined is the sort of situation where a special case may well be absolutely justified. No, I am not—

Dr JOHN KAYE: I am not worried about the special case. I am worried about the general case.

Mr CLARK: I am not saying that we should allocate based on completions.

Dr JOHN KAYE: How do you think we should use completion data?

Mr CLARK: I think completion data should be used as one of the measures—one of the measures, not the sole measure—of the success of providers in doing what it is that they do.

Dr JOHN KAYE: This fits into the general rubric where you think we should shift the focus away from providers and on to you said "clients" and then you said "students and clients".

Mr CLARK: Students and employers.

Dr JOHN KAYE: Okay. You think we should shift that focus. In that general view of the world I note that, for example, nobody on your Skills Board has ever taught in vocational education and training.

Mr CLARK: I am pretty sure that is not right. I am sure Denise Bradley has.

Dr JOHN KAYE: No, Denise Bradley has taught at a university.

Mr CLARK: No, I think she started in TAFE. I will be very surprised if Marie Persson has not. She ran TAFE.

Dr JOHN KAYE: That is true but I do not think she taught in TAFE.

Mr CLARK: I am surprised.

Dr JOHN KAYE: But there is not a big focus on teaching on your board; it is mostly industry focused. Interestingly enough, in your opening address you did not mention students. "How best to meet the skills and training needs of the New South Wales industry, employers, regions and the economy" were your opening remarks to us. Correct me if I am wrong but it seems to me that in many senses you do not think much about teachers and what they need. None of the consultation here was with teachers. It was all with either the providers, employers or the products of the providers.

Mr CLARK: No, I would certainly correct you on that. In my personal life I have had a fair bit to do with TAFE teachers, not RTO teachers, and I think they are fantastic people who do a great job. I was absolutely astounded to read the report that they did a couple of years ago on what the community thinks of TAFE teachers. I am not dismissing teachers as an unimportant part of this at all. In fact, quite the reverse.

Dr JOHN KAYE: You would accept that quality TAFE teaching requires a professional teacher in front of every classroom.

Mr CLARK: No, I did not say that.

Dr JOHN KAYE: You do not accept that?

Mr CLARK: I am not an expert. I do not know. It may well be that you—

Dr JOHN KAYE: You keep saying to us that you are not an expert but you have your hands firmly on the strategic steering wheel.

Mr CLARK: No, I do not. I am not responsible for changing TAFE. All I am saying is I want a more efficient and more effective TAFE. It is not my job to fix it. It is somebody else's job and I wish them great success.

Dr JOHN KAYE: But you have said you have a five-year pathway. You want TAFE to be more efficient and effective. You were not prepared to give me a definition of what you meant by efficient and effective.

CHAIR: Order! I think the witness answered that in the way that he talked about what efficiency meant. The witness made a point in saying it was what it was, and I think he meant efficient as a business has to run.

Mr CLARK: That is what I meant. If you want the three areas that I would be looking at— and I am not because it is not my job—the first thing I would be looking at is the head office overheads. The second thing I would be looking at is the TAFE estate. That is an area where I spend a lot of time.

Dr JOHN KAYE: You mean the physical assets?

Mr CLARK: Yes, the physical assets. The third thing I would be looking at is the salaries. But I would be looking at them in that order and not the order that is usually put, which is the way a businessperson—

Dr JOHN KAYE: They are selling off—

CHAIR: Order! We need to move on. I am mindful of other members.

The Hon. DANIEL MOOKHEY: Please understand that I put this question to you in your advisory capacity. I am not implying that you are responsible for it. Do you think the 12-month contract period is adequate to align with the quality framework?

Mr CLARK: I had not considered it.

The Hon. DANIEL MOOKHEY: The context of the question is that we have heard evidence from private providers that say with cash flow only certain for 12 months they cannot borrow against a bank to undertake the capital investment that would allow them to obtain specialist equipment to expand their offerings. Other providers that are more established in the market have said that the 12-month period does not give them adequate certainty to engage in forward planning. All of those seem to be quality issues. From the perspective of your oversight of the quality framework do you think 12 months is adequate or inadequate or a factor at all?

Mr CLARK: I am interested in the comments that you made but this is not what I see the quality framework doing. That, to me, is an implementation matter. But what you are saying has a ring of—yes, I think I can see some issues there. Why do you have a 12-month period if it is creating working capital issues for the providers?

The Hon. DANIEL MOOKHEY: I accept the point you make about it being operational but with respect to the broad policy settings the fact that providers have to reapply every 12 months is a pretty fundamental policy setting for the market. If you want to talk about core features of market design—

Mr CLARK: I am not sure they have to reapply every 12 months.

The Hon. DANIEL MOOKHEY: We heard evidence that would suggest—

Dr JOHN KAYE: It is a rolling contract.

The Hon. DANIEL MOOKHEY: It is a rolling contract, but there are other opportunities for entrants to bid.

Dr JOHN KAYE: It is not a reapply—

The Hon. DANIEL MOOKHEY: But other entrants are able to bid.

Dr JOHN KAYE: My point being it is not secure beyond 12 months.

Mr CLARK: That is a better way of putting it.

The Hon. DANIEL MOOKHEY: I am not sure that that is right but we will go on that basis. Do you think that is an issue? Would the board have a view on that, or was the board able to get a view on that?

Mr CLARK: No, the board did not have a view on that. It did not discuss that, to my recollection.

The Hon. DANIEL MOOKHEY: Could I invite the board to take a view on that or at least for you to provide, maybe on notice, an answer to that?

Mr CLARK: Yes. We are looking forward to a lot of things you guys are going to come up with.

Dr JOHN KAYE: Oh no you're not.

Mr CLARK: I did not mean that facetiously at all; I meant that seriously.

The Hon. CATHERINE CUSACK: I wanted to ask you about CSO funding. I think you gave us a bit about how you are working on the issue of disabled students and are we doing a good job for them. Do you see that there is more scope to separate those two different kinds of outcomes that are being sought—one for people with disadvantage where it is almost like day programs; they are definitely benefiting but the employment is a softer outcome for them than the young person who has left school, wants to get a job and be an apprentice. Do you think that there is scope for separating what money is available for each and accounting better for each so that we can see whether we are doing a good job for each, because you will never be able to assess them as one group?

Mr CLARK: Yes. I think that is right and I think it applies not only to disabled but particularly to remote and to low socio-economic status and traditionally low socio-economic status people who come from

low socio-economic status families that have been low assessed for a long time. There is always going to be a balance. I am very sympathetic to the \$50,000, \$60,000 that it is going to take to train that profoundly deaf child, but at the end of the day what is the right amount to cap it at? I have a son who has a disability and what TAFE did for him was just stunning, but they did it because three or four teachers volunteered to go and do it and they managed to get him to Cert. II, which is a miracle. Now he is the happiest person in the world working as a hairdresser. In fact, he will not come on holidays because he does not want to miss work.

That was a fantastic outcome in my personal experience, but it did not take a huge amount of money—and money is not always the answer. I think we have just got to get a better system for addressing these issues. I am concerned about the position of Indigenous students. I have had long discussions—one of our board members is very involved in the Indigenous community—Jack Manning Bancroft. I do not know what the answers are but I know we have not got them yet.

The Hon. CATHERINE CUSACK: So the board is looking at those issues. You seem to indicate that there is a review that is being done.

Mr CLARK: It is not a formal review; it just happens to be something that the board as a group are collectively very concerned about. It is high on all of their agendas; so it always gets done.

CHAIR: Thank you, Mr Clark, for your evidence this afternoon. Some of the members might flick you some more questions. You will have them by Wednesday and if you could provide answers to those and the questions you have taken on notice by 18 November that would be fantastic. The secretariat will be happy to help you there if you need any assistance. It has been very enlightening and very helpful to weigh up some of the other evidence that we have had. Thank you for your presentation this afternoon.

(The witness withdrew)

ANTHONY THOMAS WHITFIELD, Acting Auditor-General, Audit Office of New South Wales, and

GIULIA MARIE VITETTA, Principal Analyst, 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: Does anyone have an opening statement?

Mr WHITFIELD: Yes, if I may. I thank the Committee for the opportunity to participate in this inquiry. On 29 January this year the Auditor-General tabled a performance audit report that assessed the effectiveness of the department's framework for the Smart and Skilled vocational education and training [VET] reform. We conducted this audit during 2014 while the then responsible agency, the Department of Education, was planning for and implementing the structural changes for the VET reforms to commence in January 2015. The audit had a deliberate limited scope due to the timing of the audit. We examined whether the Smart and Skilled framework had the potential to achieve the outcome sought by the Government: strengthening the New South Wales skill base, remaining budget neutral, while ensuring that training is provided in the regions and other thin markets and that training is provided to disadvantaged groups, and ensuring the viability of TAFE in a competitive market.

So we were conscious of the timing implications when we conducted the audit and the inherent risks in undertaking an audit when planning was still underway. In particular, the department was proceeding to award the Smart and Skilled contracts, which we understood would be contentious. Our report was scheduled to be tabled after those contracts had been awarded but without reference to the result. We believed that the performance audit reported some valuable insights and recommendations for the department to consider during the review stages of the VET reforms. For example, we recommended that by July 2015 the department should ensure that the Skills Board had adequate resources to meet its statutory responsibilities to provide oversight of the reform and independent strategic advice to the Minister.

It is important to note that the department was the audit client and the secrecy provisions of the Public Finance and Audit Act require the office to discuss the audit findings and report only to that agency that was named as the audit client. It is also important to note that during the audit the team met with key stakeholders to gain a broader understanding of the VET environment. The purpose of those meetings was to understand the stakeholder views on the issues examined in the audit as well as their views on the impact of the VET reforms. The stakeholders consulted by the team included the managing director and senior officers of TAFE NSW, the chair of the NSW Skills Board, the Office of the Independent Pricing and Regulatory Tribunal—seeking their views on restricting competition by limiting contracts to New South Wales businesses—the NSW Teachers Federation, the Australian Council for Private Education and Training, the Australian Industry Group, Community Colleges Australia and the NSW Industry Training Advisory Bodies.

I notice that at the fourth public hearing of this inquiry on 22 September, Mr Collins of the NSW Department of Industry was asked a question relating to the process the department implemented to assess applications for the Smart and Skilled contracts. In his response Mr Collins stated that the Auditor-General looked at the process beforehand and was supportive of that. I would like the Committee to note that Mr Collins' statement is not accurate; we did not examine the department's decisions around the allocation of Smart and Skilled contracts to individual training organisations—it was a stated audit exclusion in our report. I would ask the Committee to be aware that I can only comment on matters that are covered by the scope of the performance audit, and that is reflected in the audit report; I cannot comment on government policy. I am happy to take any questions the Committee members would like to ask on the performance audit.

The Hon. DANIEL MOOKHEY: I will pick up with the last thing you just said which is in respect to the Auditor-General not looking into the providers. You said that was a stated audit exclusion.

Mr WHITFIELD: Yes.

The Hon. DANIEL MOOKHEY: Who stated the audit exclusion?

Mr WHITFIELD: We stated it in our report what the audit covered—

The Hon. DANIEL MOOKHEY: Did you exclude it?

Mr WHITFIELD: The Auditor-General at the time. I was not the Auditor-General at the time.

The Hon. DANIEL MOOKHEY: The Auditor-General put that as an exclusion on this audit project?

Mr WHITFIELD: Yes, it is stated what is the scope of the audit and what the scope excludes, and that was one of the exclusions so we deliberately did not look at that.

The Hon. DANIEL MOOKHEY: It is the case that the Auditor-General has not looked into the contracts that have been let in the last period of time?

Mr WHITFIELD: Correct.

The Hon. DANIEL MOOKHEY: Does the Auditor-General intend to look at the contracts that go out?

Mr WHITFIELD: That is something that we will consider when we look at our forward audit program for performance audits which we will do in the next few months.

The Hon. DANIEL MOOKHEY: Does your forward audit program at this point include an examination of the Smart and Skilled reforms?

Mr WHITFIELD: Not at this stage, no. We have got a three-year program, but every year we review the program because we have aligned the forward audit program to the State's 2020-21 Plan which is now being replaced by the Premier's State Priorities. During the period December through to February we will be looking at the current program we will be looking at any issues that have arisen in our strategic audit planning process that would give rise to audits being included in that program and perhaps some audits being removed from that program. We would intend to have a new program out probably late February.

The Hon. DANIEL MOOKHEY: That would be a revision to the three-year cycle?

Mr WHITFIELD: Yes, it is a rolling three-year program that we put out.

The Hon. CATHERINE CUSACK: I am sorry to interrupt. It might be worth explaining the difference between the ordinary audit process, of which this issue, I imagine, will be picked up and the special nature of your review.

The Hon. DANIEL MOOKHEY: I might just actually ask: Would this be picked up by the ordinary audit process?

The Hon. CATHERINE CUSACK: But I am thinking if he explains that, that will reassure you.

Mr WHITFIELD: Well the Audit Office does two sorts of financial audits. We audit the financial statements of all agencies which is 400-odd audits on an annual basis and in doing that where contracts are let by agencies, we would review the process to make sure that the appropriate process was undertaken. We also do performance audits which look at the efficiency, effectiveness and economy of how agencies undertake their business. So we could do it as a performance audit, and that would go into more depth and more detail so we would look at the process, how they have gone about tendering it out, what the conditions were, how they came to the decision to award contracts.

The Hon. DANIEL MOOKHEY: Is that what is contemplated or not contemplated in the three-year program?

Mr WHITFIELD: They are the types of audits we contemplate in a three-year program, yes.

CHAIR: In 2015 what proportion of total debt budget was contestable?

Ms LO: I think you would have to ask the department that. We would not have that information to hand for 2015.

CHAIR: What proportion of TAFE's total revenue comes from the direct funding allocations?

Ms LO: Once again I think that would be better directed at the department.

Dr JOHN KAYE: My question relates to your performance audit directly. Is it fair to say that your performance audit enthusiastically embraced the idea of a contestable TAFE market? In some sense it was critical of the Government for not moving fast enough towards contestability. Do you accept that as a characterisation?

Mr WHITFIELD: I think that is a reasonable statement to make.

Dr JOHN KAYE: What evidence do you have that contestability will produce quality outcomes?

The Hon. CATHERINE CUSACK: Is that policy?

Dr JOHN KAYE: Do you have any evidence that contestability maintains quality in the VET system?

Mr WHITFIELD: We have not specifically looked at that aspect of it.

Dr JOHN KAYE: Do you have any evidence that contestability maintains accessibility for people from disadvantaged backgrounds in the TAFE system?

The Hon. CATHERINE CUSACK: Point of order-

Dr JOHN KAYE: I am asking whether they have evidence; I am not asking about policy.

The Hon. CATHERINE CUSACK: The role here is to ascertain government compliance with policy; it is not for him to argue these issues.

Dr JOHN KAYE: To the point of order: The audit report was critical of the Government for not moving fast enough to an end point.

The Hon. CATHERINE CUSACK: Is that in meeting its own policy? In meeting the Government's policies? I just feel that this is very awkward.

Dr JOHN KAYE: I think it is reasonable. I am not asking what their opinion is, I am asking them whether they have got any evidence, that is all.

Mr WHITFIELD: We did not look at that.

The Hon. CATHERINE CUSACK: They are not auditing the policy, they are auditing the compliance with the policy.

Mr WHITFIELD: That is correct.

CHAIR: Dr Kaye, if you are going to say, "How do you measure that compliance" how is that measured for you to arrive at that point?

Dr JOHN KAYE: I will not delay the Committee. Did you do any analysis of the impacts of contestability and various market designs on the quality of learning?

Ms VITETTA: Can we take that question on notice?

Mr WHITFIELD: We will take that question on notice.

Dr JOHN KAYE: Did you do any analysis of the impacts of the market contestability or market design on the viability of TAFE?

Ms LO: No, that was not part of the audit.

Dr JOHN KAYE: Surely part of the audit was the Government's objectives. I take you to page three that states, "We found the Government is addressing debt reform objectives in the following order of priority: no cost, no extra cost—TAFE viability."

Ms LO: What we noted in the audit was that there was some non-contestable funding given to TAFE, and that went to TAFE viability.

Dr JOHN KAYE: You say "We found the Government is addressing debt reform objectives in the following order of priority" but then you tell me about TAFE viability. Then you are saying actually you did not actually look at TAFE viability or you just thought they are giving them some money so that is okay.

Ms LO: It was an observation that TAFE was being given some non-contestable funding. We did not do an assessment on a broader scale of TAFE reform.

Dr JOHN KAYE: I am confused by that statement because your finding was that they were addressing TAFE viability, but now you are telling me you did not do any analysis of that.

Ms LO: We looked at what money was being given to TAFE in order to ensure that it was still viable. We did not look at the broader TAFE reforms which were aimed at achieving additional efficiencies.

Dr JOHN KAYE: How did you know that the amount of money given to TAFE would maintain its viability? What analysis did you do to tick off on that point?

Ms LO: I will take that one on notice.

The Hon. DANIEL MOOKHEY: Your second recommendation on page four is that the Department of Education and Communities should by April 2015 expedite State training services, training and reorganisation to ensure its people have the capabilities to monitor and regulated training, protect students and ensure value for money. Did that recommendation arise from an assessment done by the Auditor-General on the capacity of STC in those respects?

Ms LO: That was on the basis that that unit was being restructured and that the time line had already slipped a little bit, so we just wanted to make sure that they had the capacity and capability to do what they needed to do.

The Hon. DANIEL MOOKHEY: April 2015 was four months into the Smart and Skilled era, so about nearly half the period of time. At the time did the Auditor-General reach the view that STC was not equipped to undertake that? Was that the assessment at the time that you did not necessarily feel like STC was adequately prepared?

The Hon. CATHERINE CUSACK: Have you got the report?

The Hon. DANIEL MOOKHEY: Yes, it is online.

Ms LO: Yes, that is covered on page 29 of the report where we thought that there was further work that could be done in that unit.

The Hon. DANIEL MOOKHEY: In respect to the audit, you say on 20 July 2015 established six-monthly public reporting metrics and published initial data on trends in training activity provided type industry equity given region, progress against NSW 2021, accepting the fact that the goals have changed since that period of time, quality indicators such as graduate employment outcomes and student and employer feedback. Do you have a view that data on RTO quality indicators such as that was not available during the assessment process or the contract letting process?

Ms LO: My understanding is that it was not available at that time and we thought that there needed to be more information out there particularly for students when they are making choices about courses.

The Hon. DANIEL MOOKHEY: When you say "was not available", do you mean not available to students or the—

Ms LO: It was not publicly available; it was not on the website.

The Hon. DANIEL MOOKHEY: Was it available to STS?

Ms LO: I do not know whether it was available to STS or not.

The Hon. DANIEL MOOKHEY: In your audit did you discover any evidence as to whether that criterion was a factor in decisions by STS to let contracts?

Ms LO: We would have to take that on notice and have a look at our evidence.

The Hon. CATHERINE CUSACK: I thank you both for coming here today and for the role that you perform. It is very helpful to the Parliament and provides a great window for the Government. I apologise because I think people are still coming to grips with what your actual role is. How did this review come about? It sounds as if this review was not in your normal scheduled program. Was it referred to you?

Dr JOHN KAYE: It is a performance audit so therefore it is not in the normal program.

The Hon. CATHERINE CUSACK: Every year the Auditor-General sits down and plans his audit performance program.

Dr JOHN KAYE: I know that.

The Hon. CATHERINE CUSACK: Was this in your normal schedule for the 12 months?

Mr WHITFIELD: My understanding was that the previous Auditor-General put it on the list.

The Hon. CATHERINE CUSACK: In terms of?

Mr WHITFIELD: He had an interest in that area.

The Hon. CATHERINE CUSACK: So it was self-nominated?

Mr WHITFIELD: Yes.

The Hon. CATHERINE CUSACK: Why was the process for the funding allocations precluded in the terms of reference?

Mr WHITFIELD: That was his decision.

The Hon. CATHERINE CUSACK: Would you be able to assist the Committee with the terms of reference?

Dr JOHN KAYE: They are in the back of the report.

Mr WHITFIELD: In the report we set out the scope of the audit. I was explaining earlier what is included in the audit and what we have excluded.

Dr JOHN KAYE: You published this in January so it would have probably been difficult to look at the process of allocations in January when they had just begun?

Mr WHITFIELD: That is correct. As I said in my opening statement, you have to have regard to the timing of the audit. It was done while the reform was still being planned and implemented. Normally we would do something post the event but the Auditor-General at the time wanted to look at it at that point in time.

The Hon. CATHERINE CUSACK: Can you talk the Committee through the governance arrangements for reform—namely, who is responsible for what and whether you think that is a robust arrangement which could be improved? I ask that question in the context of sometimes State Training Services say it is a board matter, the board seems to feel it is a State Training Services matter or maybe it is a matter for

the Minister, particularly in relation to the comment that perhaps the board's role could be strengthened and it could take more responsibility for overseeing the Smart and Skilled program, if I have understood you correctly?

Ms LO: All we looked at in the audit was State Training Services; while we made reference to the board it was about its statutory responsibilities. We did not specifically audit the role of the board.

The Hon. CATHERINE CUSACK: The governance?

Ms LO: Yes.

The Hon. CATHERINE CUSACK: In your view which agency is responsible for Smart and Skilled?

Ms LO: In terms of rolling it out we dealt with State Training Services. We got some input during the audit from the board.

The Hon. CATHERINE CUSACK: But it is very much the responsibility of State Training Services, is it not?

Ms LO: I can only talk from the perspective of what we did during the audit—we were auditing the activity of STS.

The Hon. CATHERINE CUSACK: Is it your understanding that the financial accounting and reporting for it is with State Training Services?

Ms LO: That is my understanding but they also have responsibilities around the tendering, the market design and things like that.

The Hon. CATHERINE CUSACK: Did you suggest any changes to the role of the board?

Ms LO: No, I think our recommendation was around ensuring that the board has adequate resources to fulfil its role and we referred to its statutory role in the report.

The Hon. CATHERINE CUSACK: What do you understand its statutory role to be?

Ms LO: In terms of providing oversight of the reform and providing independent strategic advice to the Minister.

The Hon. CATHERINE CUSACK: I am just trying to clarify where giving advice ends and being accountable. It is hard to pin down the accountabilities here.

Ms LO: I understand your point. I can only refer to what the statute says. We did not go behind that and I guess drill down and say, "This task belongs to you and this task belongs to you."

The Hon. GREG DONNELLY: I refer you to page 24 of the report. Do you see the paragraph immediately above the recommendation box?

Mr WHITFIELD: Yes.

The Hon. GREG DONNELLY: I quote from that paragraph: "Given the concerns about poor training quality and TAFE viability associated with the introduction of price competition in other States, it is appropriate that the Department fixes fees in 2015 while it establishes systems to monitor training quality and performance." I want to focus on the words "while it establishes systems to monitor training quality and performance." Are we to take from that the implication that a belief was formed that what currently is in place was unable to provide systems to monitor training quality and performance and that is why there is essentially this request or encouragement?

Ms LO: I do not think that was our implication. I think what we were trying to say was that before it makes decisions going forward it should gather the data it needs so that it makes decisions based on evidence. We did have a look at what was happening in the other States and Territories, in particular Victoria where there

were some poor outcomes and we understood why the department was taking a more cautious approach to the reform.

The Hon. GREG DONNELLY: Dropping down two lines in that paragraph, it states: "This review should consider whether the price should reflect public value and needs to be informed by better cost data collected throughout 2015 to assess the impact of competition in the VET market." With respect to the notion of public value and how one would reflect public value, could you elucidate on how that would be done in a practical way?

Ms LO: I do think that question would probably be better directed to the department. It has the expertise, research evidence and data to arrive at conclusions about where there is greater public value in particular qualifications.

The Hon. GREG DONNELLY: But this is your report?

Ms LO: That is right.

The Hon. GREG DONNELLY: It states, "This review should consider whether the price should reflect public value ..." That is something that you are essentially putting forward. What do you understand public value to be and how could that be calculated in a concrete way or understood?

Ms LO: I can only refer back to my answer previously. I think the department would need to answer that question. It would be based on evidence.

The Hon. GREG DONNELLY: Let me put it another way. In other audits you have done with respect to other agencies or bodies how do you define this notion of public value?

Ms LO: Is there a particular audit that you are referring to? I think it would depend on the context.

The Hon. GREG DONNELLY: This is language that you are using in your report.

Ms LO: Yes.

The Hon. GREG DONNELLY: What do you mean by that? You must have an idea of what that means.

Ms LO: It means the weight or the value that the Government and the public generally give to particular qualifications. For example, is there a need for more personal trainers as opposed to a need for more people in trades or hairdressing or something else? That would be based on data.

The Hon. GREG DONNELLY: It seems odd to me that this is something that has been submitted by the Audit Office of NSW but when pressed to clarify what it means you are saying that is for the body, department or the agency to determine. It seems to me to be very amorphous that you can have different views and positions about what public value is in terms of arising and coming back to yourselves and you would have no way of testing that because you have left it to the agency, the department or the body.

Mr WHITFIELD: But the agency would establish criteria to work out what it believes is public value. For instance, if you were to price a course at \$100,000, that is not necessarily public value depending on the nature of the course. It may be assessed as having more public value if it were a \$5,000 course. All we are saying is that in setting fees it needs to do some research and establish what it believes is public value and come up with a reasonable costing for courses.

The Hon. GREG DONNELLY: But you do not have a definition of what that means?

Mr WHITFIELD: It will vary depending on the nature of the course and the demand for the course. That will determine public value.

The Hon. CATHERINE CUSACK: In other words, you are saying that they need to be able to explain the allocation.

Mr WHITFIELD: Yes, that is correct.

The Hon. SCOTT FARLOW: Did you look at the Independent Pricing and Regulatory Tribunal's [IPART] methodology in terms of fee setting?

Ms LO: Yes, we did look at the IPART methodology and noted in the report that the Government did not pick up the recommendation about allowing providers to compete on price and charge up to 50 per cent less than the price that had been suggested.

The Hon. SCOTT FARLOW: And that was your primary concern?

Ms LO: I guess it was more of an observation. We understood that they had a reason for not allowing competition based on price at this point in time. However, when they are doing the review that is something they need to look at.

The Hon. DANIEL MOOKHEY: I will persist with the line of questioning pursued by the Hon. Greg Donnelly. I refer to recommendations 8.2 and 8.3, which deal with what is meant by "reflective public value". What do you mean by "weighted"? That goes back to the IPART methodology. In recommendation 8.3 you call for, among other things:

... assess the impact of the partial implementation of the 2013 IPART recommendations on pricing for VET in relation to the efficient price for student fees and the decision not to define the fee as a maximum and allow RTOs to charge up to 50 per cent less, the efficient price mechanism that IPART has developed to assess the impact of the partial implementation of the 2013 IPART recommendations on pricing for VET in relation to the efficient price of students fees.

When you say "efficient price", I presume you are referring to the price produced by the IPART methodology after it is applied.

Ms LO: Which page are you referring to?

The Hon. DANIEL MOOKHEY: I am looking at page 4, but you could equally refer to the same passage that the Hon. Greg Donnelly quoted.

Dr JOHN KAYE: It is page 24.

The Hon. DANIEL MOOKHEY: Page 24 contains the more detailed section that gives rise to that recommendation.

Mr WHITFIELD: We believe we are referring to the IPART process. However, we can take the question on notice and check that.

The Hon. DANIEL MOOKHEY: I am trying to align that with what you say on page 3. You say, among other things:

The VET reform's budget neutral objective, its pricing structure and the incentives for efficiency mean that it is unlikely to generate the funds needed to meet this State Plan goal.

That broad conclusion is reached presumably when you say "assess the impact of the partial implementation of the 2013 IPART recommendations on pricing for VET in relation to the efficient price of students' fees". You go on to say:

... not to define the fee as a maximum and allow RTOs to charge up to 50 per cent less.

You also say at recommendation 8.2:

... qualification pricing should be weighted to reflect public value ...

I am struggling to understand how you reconcile all three. Two of those statements are calls for more funds in the system, or that is the implication that arises from ordinary language as you would apply it. I may be misquoting you, and if I am please let me know. However, you then say that "qualification pricing should be weighted to reflect public value". Do you therefore think that the subsidy for courses found to be of more public value should be higher or lower, or do you think that the efficient price does not pick up on public value?

Ms LO: You have asked a number of questions. I think we are suggesting that when they are reviewing it they need to look at public value and how they weight different things. Many different factors determine what the criteria should be, and Mr Whitfield went through some of them. You made a statement about the implication being drawn from some of those words being that we are calling for more money. That is a government policy decision.

The Hon. DANIEL MOOKHEY: But your statement on the basis of the current settings is such that in your view the goals will not be met if the current parameters are continued.

Ms LO: Correct. However, there is potentially more than one source.

The Hon. DANIEL MOOKHEY: Of course. I am not suggesting that you are calling—

Ms LO: If efficiencies are achieved, they can generate savings that can then be invested back into the system.

The Hon. DANIEL MOOKHEY: When you say "qualification pricing should be weighted", do you not think that IPART's efficient price mechanism does that?

The Hon. CATHERINE CUSACK: I will ask a hypothetical question that might help. If we had a shortage of motor vehicle apprentices, the cost of the course was too high and not enough people were doing it, are you saying that we should weight the subsidy in favour of that course?

Ms LO: That could be one consideration.

The Hon. CATHERINE CUSACK: That would be an example of weighting and of public value so that we did not run out of motor vehicle repairers.

Ms LO: Yes.

The Hon. DANIEL MOOKHEY: So the conclusion is that you do not necessarily think that weighting must take place in the efficient price mechanism.

Ms LO: There are different ways of achieving an end. The department and the Government need to decide certain objectives, and some of them are set out in the national partnership agreement and some were set out in the old State plan. I have not checked the Premier's and the State's priorities to see whether that has been carried across. However, given any particular set of objectives, you can work backwards and achieve them in a number of ways.

The Hon. DANIEL MOOKHEY: You say "collect robust data on the cost of training delivery". Did you come across any data in your audit that related to the cost of training delivery? How much it actually costs has been a point of contention.

Ms LO: We will take that question on notice and check the data we looked at.

The Hon. CATHERINE CUSACK: You have described Smart and Skilled as a complex program. Is it more complex than it needs to be?

Ms LO: That is a difficult question for us to comment on because it depends on decisions made around policy settings, and there would be particular reasons for decisions. It is going into the grey area of policy.

The Hon. CATHERINE CUSACK: We are going through a reform process for institutions like TAFE and we are introducing Smart and Skilled. The two things are happening at the same time. Can you see this becoming simpler as the reforms are bedded down?

Ms LO: I think so. This is very early in the life of the reform. For example, systems and processes are being put in place to collect data. Once those things are set up, you get evidence to inform future decisions. It has the potential to get easier.

The Hon. CATHERINE CUSACK: There are two main types of policy levers that governments use. One is regulation and the other is funding. Did you look at whether the Government has a valuation methodology in place to monitor those kinds of levers and to calibrate them over time?

Ms LO: I do not think we looked at that. However, I will take that question on notice and double check.

The Hon. SCOTT FARLOW: I refer to recommendation 6.3 and the commentary on it on page 35. That focuses on student choice and being able to make an informed decision. Was there any reason or rationale for not recommending that TAFE quality indicators were also included as part of that publicly accessible information like registered training organisation quality indicators?

Dr JOHN KAYE: TAFE is a registered training organisation. TAFE has eight registered training organisations in New South Wales.

The Hon. SCOTT FARLOW: I withdraw that question. In terms of those recommendations, what has the Government implemented so far? Have you tracked that?

Ms LO: Not since we tabled the report. As you may be aware, the Public Accounts Committee does follow-ups on performance audit recommendations. Usually about 12 months after a report is tabled the Public Accounts Committee will write to an audited agency asking it to provide information on how it is progressing with implementation. They will then invite some of those agencies to public hearings and in fact this morning the Public Accounts Committee followed up four other performance audit reports and Mr Whitfield and I were there.

The Hon. SCOTT FARLOW: A busy day for you today.

Ms LO: Yes.

The Hon. SCOTT FARLOW: In terms of the public report being taken in Victoria, which I think you fashioned some of your recommendations around, or at least looked at in terms of your report, what did you say the outcomes were in Victoria in comparison to New South Wales from those reporting indicators? Did you do any research for that based on how people were taking that into consideration in choosing their VET provider?

Ms LO: We did look at what had happened in Victoria and we were finding that there were problems. They opened up their market very quickly and that did result in some adverse outcomes. For example, there were new entrants into the field, in terms of Registered Training Organisations [RTOs]. Some of those could not sustain their business and collapsed and that left students high and dry. So we understood that State Training Services took into account the experiences in other jurisdictions when designing the response in New South Wales.

Dr JOHN KAYE: Can I take you to page 2 of your report. And it says, in about the fifth paragraph:

In 2013-14, the New South Wales Government spent \$2,185.5 million subsidising VET.

Is that statement true? Because I think you have included in that, fees and charges. Is that correct? You have actually added in what they spent in what they call vocational education and training, what they gave to TAFE—and in that year it would have been direct funding to TAFE—and then you have added to that, which comes, by my calculations, to about \$1.6 billion and then the rest is about the \$453 million in TAFE fees.

Ms LO: We will double check that figure and come back to the Committee.

Dr JOHN KAYE: I think this is important because you might note that the Minister has picked up on that and he talks about the \$2.2 million he spends on training in New South Wales. It is not all government money, is it?

Ms LO: As I said, we will check the figures and where we got that from.

Dr JOHN KAYE: Thank you for doing that. That might be worth clarifying in an addendum to your report because I do think you have got that wrong. I take to you page 27 of your report. I will quickly read you this statement:

The direct funding of TAFE creates ambiguity around the capacity and authority of the Department to plan and manage the VET sector as a whole.

Again, I challenge that statement. Is it not true that the direct funding of TAFE comes from one part of the department and the planning and management of the VET sector, as a whole, is through State Training Services and the Skills Board? My point being, you are saying there is an ambiguity between having both functions, that is, funding TAFE and managing the VET sector, yet it is not true that those come from two different parts of the department?

Ms LO: My understanding is that the Minister is the funder; the department is the purchaser; and TAFE is the provider in that relationship.

Dr JOHN KAYE: I guess I am confused by the statement. There is State Training Services [STS] which plans—well, planning is largely done by the Skills Board—State Training Services manages the VET sector and then the department and the Cabinet provide the funding to TAFE. So where is the ambiguity created?

Ms LO: I think your comments around that were around making sure that there is accountability. So where TAFE is getting non-contestable funding, it has been given funding, to make sure there is a clarity or a Memorandum of Understanding or something of that nature, to be clear on what TAFE is accountable for delivering, using that money.

Dr JOHN KAYE: Yes, I understand that and I think that is a good recommendation. I do not have any difficulty with that and I do not think anybody would. But my question relates to the ambiguity. You have stated, as a bold statement, that there is ambiguity. I am trying to find out what that ambiguity is, how I could misinterpret that or how I could give that an adverse reading.

Ms LO: At the time we did our audit State Training Services was still part of the Department of Education and Communities, as it was called then. Since that time there has been a rearrangement of clusters and departments.

Dr JOHN KAYE: On page 26, just above the dot points in section 3.2, page 26:

However, the separation of purchaser and provider is not complete.

Do you want it to be complete? Are you therefore saying that the only way to get that completion would be to privatise TAFE entirely?

Ms LO: No we did not try to imply that.

Mr WHITFIELD: No, you can have a separation of purchaser and provider between two State agencies but at one point in time STS, TAFE and Education were all the one entity.

Dr JOHN KAYE: Called the New South Wales Government?

Mr WHITFIELD: No, called the Department of Education.

Dr JOHN KAYE: Now they are all within the industry cluster. Are you suggesting, for example, that maybe TAFE should be moved back to the Department of Education?

Mr WHITFIELD: No, what I am suggesting is that if you have a situation where you have three divisions of the same entity entering into a purchaser-provider situation, they are, in effect, dealing with themselves.

Dr JOHN KAYE: So how do you resolve that?

Mr WHITFIELD: Well you make them separate entities. So TAFE is moved out—

Dr JOHN KAYE: It is now the TAFE Commission.

Mr WHITFIELD: Right, so it is separate, so it is the provider and you have got another entity as the purchaser.

Dr JOHN KAYE: If I can short circuit it, you are saying that separation is now complete, under the current arrangements?

Mr WHITFIELD: With TAFE moving out from being part of the Department of Education, yes.

Dr JOHN KAYE: Well, the Department of Education is not involved in this at all any more, it is all within the industry cluster.

Mr WHITFIELD: No but at the time we were doing this audit, it was.

Dr JOHN KAYE: My question is, has your problem now been resolved?

Mr WHITFIELD: I thought I had answered the question by saying, if it is moved into a separate entity, it solves the problem.

Dr JOHN KAYE: I am now questioning what you mean by "separate entity". Has it now been resolved by setting up the TAFE Commission?

Mr WHITFIELD: As a separate entity, yes.

Dr JOHN KAYE: It is now resolved, okay.

CHAIR: Mr Mookhey?

The Hon. DANIEL MOOKHEY: I am just going to pick up on the purchaser's role and I am referring specifically to pages 27 to roughly 30 or 31 of your report. Given the strong emphasis you place on contract compliance in this section, it seems implied that you do think that it is the responsibility of STS to ensure contract compliance?

Ms LO: Yes.

The Hon. DANIEL MOOKHEY: You make this comment in the second last paragraph on page 27:

The national regulator, ASQA, has only 204 staff, including five investigators, to monitor the compliance of around 5,000 RTOs with national standards. Four out of five RTOs reviewed by ASQA in 2013-14 had misleading marketing, offered courses with unrealistically short duration or did not comply with standards around student assessment.

That was obviously before Smart and Skilled but was that four of five New South Wales RTOs or do you have to give that answer on notice?

Ms LO: We would not know.

The Hon. DANIEL MOOKHEY: Implied in that though is somewhat of a sceptical outlook on Australian Skills Quality Authority's [ASQA's] ability to act as a substantial regulator, or am I over-reading your paragraph?

Ms LO: I do not think we were commenting on their performance as a regulator, we were just making an observation that they have to cover the whole country and there are only five investigators performing that role. And I think we note elsewhere in the report that they might provide a certain level of regulation and assurance but State Training Services also plays a very important role in this space.

The Hon. DANIEL MOOKHEY: On page 17 you say:

ASQA has found that only 20 per cent of RTOs are fully compliant with national training standards.

Presumably part of the reasons why you are drawing such attention to ASQA's findings is to imply that there is a higher risk factor or that these are factors that ought to be considered by STS in its contract compliance?

Ms LO: Yes, I would agree that we are pointing out that State Training Services has a very important role to play and they just cannot rely on ASQA.

The Hon. DANIEL MOOKHEY: We have heard evidence from STS that the prime aspect of their enforcement strategy is ASQA, that they rely on ASQA to ensure market standards. Your view is that is probably not adequate?

Ms LO: It is a complementary role.

The Hon. DANIEL MOOKHEY: That is an accurate description in the sense that the two roles are technically complementary. I do not doubt that. What I am trying to get to is in terms of the role as a purchaser, additionally you go on the basis of your findings to therefore call for stepped up resources for STS, additional capability, more staff training. On the basis of your audit do you think that is necessarily because ASQA is inadequate or not adequate fit for the purpose of ensuring value for money under the New South Wales tax payers buy?

Ms LO: Because we were not auditing ASQA, we were not reaching a conclusion on their performance. I think what we were trying to say that it is very important that State Training Services have appropriate capabilities and resources to do their job.

The Hon. GREG DONNELLY: Could I just jump in without paraphrasing. In that same paragraph that my colleague referred to, in the next sentence it states:

As jurisdictions recognise that ASQA accreditation alone is not an adequate assurance of quality.

It is a very definitive statement you are making there. It really is laying out things pretty clearly, isn't it?

Ms LO: Yes, we say that State Training Services needs to do something extra.

The Hon. DANIEL MOOKHEY: That was my question.

The Hon. CATHERINE CUSACK: Can you tell me what the operational based funding for TAFE was for the 2015 financial year?

Ms LO: That is not information we would have.

CHAIR: You have to ask the department.

Ms LO: We had the information at the time of the audit but obviously things have moved on.

The Hon. CATHERINE CUSACK: TAFE has base funding and community service obligations funding and that is the component that accountability is being looked at over time. What intrigues me is that as of November 2014 they had not signed an agreement between the department and TAFE for the deliverables for that funding. Of course that is well into the 2014 to 2015 financial year. Your recommendation was that they should sign a memorandum by April 2015. That is only a couple of months prior to the completion of the financial year. Can you take us through why getting that memorandum was so delayed? How can you make an organisation accountable for how it spends money if you do not reach an agreement on how it is to be spent until almost all of it has already been spent?

Ms LO: Both very good questions. You would have to ask the department why it was delayed. Your other question was about accountability. That is why we were so strong on making sure the accountability arrangements were put in place.

The Hon. CATHERINE CUSACK: Is it your understanding that memorandum has been signed now?

Ms LO: I do not know, you would have to ask the department.

The Hon. CATHERINE CUSACK: Are you aware as to whether there is any transparency around that document?

Ms LO: I do not know.

The Hon. CATHERINE CUSACK: We will ask the department.

Dr JOHN KAYE: Just to go back to the question Mr Donnelly and Mr Mookhey were asking you before. You wanted the department to assess whether qualification pricing should be weighted to reflect public value. Under the IPART methodology if you increased the qualification pricing for a qualification, for example, that had more labour market demand or had some specific public value, that would mean the fees would go up as well, would it not?

Ms LO: It could do, that is a potential outcome.

Dr JOHN KAYE: That is the methodology; if the pricing goes up everything goes up because the fees are set as a percentage of the pricing in most cases. That would mean that access to high public value professions would be limited to those who could afford to pay higher fees?

Ms LO: What we were suggesting in the report is that if there was price competition and incentives for efficiency that some RTOs could be competitive and offer the subject at a lower price.

Dr JOHN KAYE: Generally that would mean lower quality, right?

Ms LO: Not necessarily.

Dr JOHN KAYE: Just to go back to that. Leaving that aside, because that is not what's happening, what is happening at the moment is fixed pricing. That would mean, would it not, if the Government adopted your recommendation and said, yes, we should do that, it would be more expensive to get a qualification that was in an area of higher public value. So you would be saying that only people who can afford to get into areas of higher public value should be allowed to get into those areas?

Ms LO: I do not necessarily think that is the outcome. I understand that there are programs built in for disadvantaged people to access courses.

Dr JOHN KAYE: The answer is to wrap it around with a layer of scholarships and welfare? That is not going anywhere.

The Hon. DANIEL MOOKHEY: I have one question arising from Ms Cusack's line of questioning, which relates to the cause for delay as to the entering into the agreement. The last paragraph of page 26 you state:

The Minister for Education expects the Department and TAFE to negotiate what this non-contestable funding will achieve and for TAFE to regularly report on specific deliverables to the Department. The agencies had not resolved the negotiations or agreed to a memorandum of understanding at November 2014. A cause of the delay appears to be that the agencies and Treasury had not finalised the allocation of the 2014–15 budget or future estimates for VET.

It is the case that the cause for the delay was because neither the Minister for TAFE had sufficient information to meaningfully conclude that memorandum?

Ms LO: I think we have written it in a way that we said "appears to be".

The Hon. DANIEL MOOKHEY: That is what it appeared to be at the time as the cause for the delay, Treasury was not providing them with the information that was required?

Ms LO: That would have been based on evidence that we collected at the time from the department.

The Hon. DANIEL MOOKHEY: We can essentially take that as read as being the reason for the delay? I am more than happy to blame Treasury.

The Hon. SCOTT FARLOW: The audit officer.

Ms LO: That statement would have been based on evidence that we collected at the time, either documentation or based on interviews that we had with people.

The Hon. DANIEL MOOKHEY: The only reason I ask is because we have heard evidence from institutes that say that that was a significant factor in them being able to plan their program delivery, cost recovery and essentially how much they could provide. In your view that seems like an incredible outcome that they were reporting to us or that would be a logical implication arising from the delay, from Treasury's failure to provide that information?

Ms LO: To put have put a statement like that in a report we would have had to have evidence to make that statement.

The Hon. DANIEL MOOKHEY: I presume most of your statements are evidence led?

Ms LO: All of them.

The Hon. DANIEL MOOKHEY: I congratulate you for your scrupulous attention to detail and evidence.

CHAIR: I do note that you did take quite a few questions on notice for evidence and further research. The Committee is here to assist you if you need them to. We would like the answers by 18 November and we may put further questions to you on notice in the next 24 to 48 hours. We thank you for the great work that the Auditor-General's Office does in all its areas. Thank you for your presentation this afternoon, it has been very helpful.

(The witnesses withdrew)

(The Committee adjourned at 4.58 p.m.)