



THIRTY-SEVENTH PARLIAMENT

REPORT 12
STANDING COMMITTEE ON ESTIMATES AND
FINANCIAL OPERATIONS
BALGA WORKS PROGRAM

Presented by Hon Giz Watson MLC (Chair)

May 2008

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Date first appointed:

30 June 2005

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

“2. Standing Committee on Estimates and Financial Operations

2.1 An *Estimates and Financial Operations Committee* is established.

2.2 The Committee consists of 5 Members, 3 of whom shall be non-government Members.

2.3 The functions of the Committee are to consider and report on -

- (a) the estimates of expenditure laid before the Council each year;
- (b) any matter relating to the financial administration of the State;
- (c) any bill or other matter relating to the foregoing functions referred by the House;
- (d) to consult regularly with the Auditor General and any person holding an office of a like character.”

Members as at the time of this inquiry:

Hon Giz Watson MLC (Chair)

Hon Sheila Mills MLC

Hon Ken Travers MLC (Deputy Chair)

Hon Helen Morton MLC

Hon Brian Ellis MLC (participating Member pursuant to SO 326 from 5 December 2007)

Hon Peter Collier MLC (substituted for Hon Anthony Fels MLC until 4 December 2007, and then Hon Brian Ellis MLC, pursuant to SO 326A)

Staff as at the time of this inquiry:

Lisa Peterson, Advisory Officer (General)

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Note

The Twelfth Report of the Standing Committee on Estimates and Financial Operations consists of a Report of the Committee and a Minority Report of Hon Ken Travers MLC.



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Government Response

This Report is subject to Standing Order 337:

After tabling, the Clerk shall send a copy of a report recommending action by, or seeking a response from, the Government to the responsible Minister. The Leader of the Government or the Minister (if a Member of the Council) shall report the Government's response within 4 months.

The four-month period commences on the date of tabling.

Glossary and Acronyms

ABN	Australian Business Number
Borger Report	Initial report on the Balga Works Program by the Swan District Finance and Administration Officer, Department of Education and Training, 17 November 2005.
BSHS	Balga Senior High School
BWP	Balga Works Program
CCC	Corruption and Crime Commission
Council	Legislative Council
Committee	Standing Committee on Estimates and Financial Operations
CSA	School Audit Control Self Assessment Survey
DCD	Department of Child Protection, formerly the Department of Community Development
DET	Department of Education and Training
DETP	District Education and Training Plan
DOJ	Department of Corrective Services formerly the Department of Justice
FREDA	Financial Reporting via Electronic Data Access system
FTE	full-time equivalent
Hurson	Hurson Pty Ltd
IAD Report	Special Audit Investigation of Balga Senior High School Balga Works Program report by the Internal Assurance Directorate of the DET dated December 2006
Investigation Reference Group	Balga Works Investigation Reference Group
Minister Carpenter	Mr Alan Carpenter MLA, former Minister for Education and Training

MITs	Manufacturing Industry Training Services Pty Ltd
MITs/BSHS proposal	Proposal for the BSHS to deliver the MITs Program
MITs Program	Program being run by a Victorian company, Manufacturing Industry Training Services Pty Ltd
P & C	Balga Senior High School Parents and Citizens Association Inc
PCYC	Balga-Morley Police and Community Youth Centre
RTO	Registered Training Organisation
SIS	School Information System
SSC	State Supply Commission
VET	Vocational Education and Training
WAPS	Western Australia Police Service

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FINDINGS AND RECOMMENDATIONS

FINDINGS AND RECOMMENDATIONS

- 1 Findings and Recommendations are grouped as they appear in the text at the page number indicated:

Page 14

Recommendation 1: The Committee recommends that the Government develop guidelines requiring all public servants to report on the outcome of travel undertaken for a public purpose.

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Recommendation 2: The Committee recommends that the Department of Education and Training investigate whether the funding provided by the Aboriginal Education and Training Directorate to the Balga Senior High School was used for the purpose it was intended and if not, was the redirection of the funding appropriate. Further, what was the knowledge and complicity of any officer of the Department of Education and Training in relation to this funding.

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Recommendation 3: The Committee recommends that the Department of Education and Training investigate how it was possible for Mr Hammond in September 2004 to arrange an FTE conversion to fund the Balga Works Program at the Balga Senior High School without the support of the Minister for Education and Training and with the Director General's reservations about the program.

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Finding 1: The Committee finds that that the DET failed to ensure adequate verification of the enrolment and attendance records and this was a failure in their financial management practices.

Finding 2:

The Committee finds that the responsibility for the failures with the program and the administration of the school lay primarily with Mr Hammond.

The Committee is of the view that the DET is also responsible for the failures for the following reasons:

- i) its complicity in providing funding for the BWP in an ad-hoc manner and without proper planning, accountability mechanisms or due diligence;**
- ii) its ineffectiveness in responding in an appropriate and timely manner despite overwhelming evidence of the issues being faced by the BSHS and the BWP throughout the life of the program. In particular, the response of the Investigation Reference Group at the end of 2005 was inadequate (see paragraphs 3.55 to 3.103); and**
- iii) its ineffectiveness in managing Mr Hammond.**

The Committee has concerns with the process for the appointment of a supplementary deputy principal to provide additional support for the BSHS. The Committee believes that the DET should have taken greater responsibility for this appointment rather than leaving Mr Hammond to Chair the selection process.

The Committee finds that the DET responses to the BWP issues were inadequate and the additional support provided did not resolve the problems. The DET should have ensured that the issues faced by the BSHS were being addressed as a result of the additional resources being provided.

Further, the Committee finds that the Minister for Education and Training was not fully informed through the briefing notes provided in relation to the BWP (see paragraph 3.154).

Recommendation 4: The Committee recommends that the Minister for Education and Training advise the Legislative Council as to whether he is satisfied that the Department of Education and Training has met its duty of care obligations towards those persons adversely affected by the Balga Works Program.

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Finding 3: The Committee finds that:

- a) **Mr Michael Carton did not have the necessary skills and expertise to establish the accommodation component of the program;**
- b) **planning and staff training was inadequate to deal with the young people placed in the program; and**
- c) **that Mr Michael Carton mismanaged the supervision of the young people in the accommodation program. This included lack of suitable supervision and the lack of effective discipline and behaviour management.**

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Recommendation 5: The Committee recommends that a review of the monitoring processes for placements by the Department of Corrective Services and the Department Child Protection be undertaken.

Page 161

Recommendation 6: The Committee recommends that the Department of Education and Training develop written policies and guidelines for due diligence checks that are to be undertaken by a school when engaging a private service provider. This includes ensuring the private provider has processes in place to ensure that the staff hired by the private provider are appropriately qualified.

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Recommendation 7: The Committee by a majority (comprising Hons Giz Watson, Peter Collier, Sheila Mills and Helen Morton MLCs) recommends that the Western Australian Council of State School Organisations Incorporated prohibit school employees who are members of a Parents and Citizens Association to also be signatories of the Parents and Citizens Associations bank accounts.

Page 173

Recommendation 8: The Committee recommends that the Government ensure that a detailed investigation be undertaken by the appropriate authorities into the role and activities of the Balga Senior High School Parent and Citizens Association Inc in relation to the Balga Works Program.

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Recommendation 9: The Committee recommends that the Government establish as a matter of priority, a program for disengaged youth that provides appropriate education and vocational training along with integrated accommodation and life skills support.

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Recommendation 10: The Committee recommends that the Department of Education and Training reviews the financial management support provided to schools. This should include adequate training for Business Managers, Registrars, Principals and Deputy Principals on the financial management practices of the Department of Education and Training.

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Recommendation 11: The Committee by a majority (comprising Hons Giz Watson, Peter Collier, Sheila Mills and Helen Morton MLCs) recommends that the Government reimburse all former employees of the Balga Works Program, who can demonstrate their claims for outstanding wages and superannuation.

Page 181

Recommendation 12: The Committee recommends that the Government examine whether it has any recourse to recoup monies including outstanding wages and superannuation from any individual or company and their directors involved in the management of the Balga Works Program including Mr Hammond, Mr Michael Carton and Hurson Pty Ltd.

Page 182

Recommendation 13: The Committee recommends that the Government provide assistance and support in the form of a debriefing and counselling to the people affected by the Balga Works Program and that in six months time the Government report back to the Legislative Council on its actions.

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Recommendation 14: The Committee recommends that the Government identify the young people who were enrolled in the Balga Works Program and ensure that they are able to access educational and employment assistance to the level promised by the Balga Works Program.

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Recommendation 15: The Committee recommends that the Department of Education and Training review the adequacy of its capacity to facilitate the resourcing and establishment of innovative initiatives within schools.

CHAPTER 1

INTRODUCTION

REFERENCE AND PROCEDURE

- 1.1 On 27 June 2007 the Legislative Council (**Council**) referred the following inquiry to the Estimates and Financial Operations Committee (**Committee**):

Memorandum of Understanding between Balga Senior High School and Manufacturing Industry Training Services Pty Ltd

- (1) *The Standing Committee on Estimates and Financial Operations is to inquire into and report on -*
- (a) *the establishment, administration and financing of the Balga Works Program; and*
- (b) *such other relevant matters as the Committee considers appropriate.*
- (2) *The Committee is to report to the House no later than Thursday, 18 October 2007.*

- 1.2 In order to define the scope of its inquiry, within its terms of reference the Committee resolved to focus on the following in relation to the program referred to as Balga Works:

- examine the events surrounding the establishment of the program;
- the adequacy and timeliness of responses to complaints raised concerning the program;
- examine the procedures and processes of the Department of Education and Training, the Department of Child Protection and the Department of Corrective Services; and
- identify if there were any failures in the administration and funding of the Balga Works Program.

- 1.3 The Committee sought and was granted an extension of time until 29 May 2008.

- 1.4 The Committee advertised for written submissions in *The West Australian* newspaper on Saturday, 21 July 2007, the *Wanneroo Times*, the *Stirling Times* and the *Eastern*

Suburbs on Tuesday, 24 July 2007. Details of the inquiry were also placed on the parliamentary website (www.parliament.wa.gov.au).

- 1.5 The Committee wrote to the key stakeholders requesting submissions. A list of the stakeholders that the Committee wrote to is attached at **Appendix 1**.
- 1.6 The Committee received 29 submissions. A list of the written submissions accepted by the Committee is set out at **Appendix 2**.
- 1.7 The Committee held private briefings with the Corruption and Crime Commission (CCC), the Western Australia Police Service (WAPS) and the Department of Education and Training (DET) on 11 July 2007.
- 1.8 The Committee held a number of private hearings. A list of the hearings is set out at **Appendix 3**.
- 1.9 The Committee held all its hearings in private due to consideration of a number of factors, including the sensitive nature of the evidence it was receiving, the need to provide anonymity for witnesses' and recognition of the principles of the *sub judice* convention. Hearings with government officers have subsequently been made public.
- 1.10 In accordance with Standing Order 423, the Committee sought leave of the Legislative Council and Legislative Assembly to enable Mr Trevor Sprigg MLA, the then Member for Murdoch¹ to give evidence before it.²
- 1.11 The Committee has made a number of adverse findings against individuals and organisations. In accordance with Standing Order 330(g), the Committee provided such persons and organisations with an opportunity to respond to the Committee's draft findings. The Committee considered all responses received, and has amended its findings where appropriate. Relevant letters and responses are attached at **Appendix 4**.
- 1.12 The Committee thanks the individuals and organisations that provided evidence and information for the inquiry.

BALGA SENIOR HIGH SCHOOL

- 1.13 Balga Senior High School (BSHS) is a specialist program-based school which has become an important institution within the northern suburbs public education system for catering to the educational needs of a range of students at risk. The BSHS services Aboriginal students at risk, students with intellectual disabilities, humanitarian migration entrant students with limited schooling, young mothers who are supported

¹ Trevor Sprigg MLA passed away on 17 January 2008.

² Leave was granted on 20 September 2007.

with an at-school child care service, students exhibiting significant violence and a small mainstream intake from the local area.³ The BSHS has the lowest social economic scale in Perth.⁴

- 1.14 Programs offered at BSHS include the Swan Nyungar Sports Education Program, Intensive English Centre, Education Support Units, Young Parents Program, 'No Dole' Program, Balga Youth Program, Police Rangers, Aspirations, and a comprehensive Vocational Education and Training (**VET**) Program.⁵
- 1.15 BSHS was not always a program-based school. In 2001, BSHS changed its structures and program focuses. It removed the Tertiary Entrance Examination courses and instead focused on providing VET courses and pastoral care. BSHS commenced the process of developing specific purpose curriculum programs to suit the needs of students.⁶ The reason for this change was because the traditional model did not suit the diverse needs of the students:

*The essential reason for this dramatic change was because the traditional model simply did not suit Balga's disadvantaged students at risk. Failure had become the norm; Balga decided to go for realistic and relevant success.*⁷

- 1.16 The former Principal of the BSHS, Mr Mervyn Hammond, was the driving force behind the changes at BSHS and the development of the programs at the school. Prior to his retirement in September 2006 Mr Hammond was seen as very successful by the community. In 2001 he was the Rotary Principal of the Year and in 2004 he was on the National Honours List for Services to Education. He also won a Pacific Institute scholarship to the United Kingdom.⁸
- 1.17 The Balga Works Program (**BWP**) was established within this context.

THE BALGA WORKS PROGRAM - A BRIEF OVERVIEW

- 1.18 The following is an overview of what the BWP was purported to provide.
- 1.19 The BWP was a training program, holistic in nature, comprising an education component and accommodation component. Care was provided for the students enrolled in the program, 24 hours a day, seven days a week, 52 weeks of the year. The program commenced operating in February 2005 and ceased in October 2006.

³ Submission No 15 from the DET, August 2007, p2.

⁴ <http://www.det.wa.edu.au/education/schoolinfo/> (viewed on 26 May 2008).

⁵ <http://www.balgashs.wa.edu.au/> (viewed on 21 November 2007).

⁶ BSHS Program 2005 Information Sheet: School Program Overview.

⁷ Ibid.

1.20 The aim of the program was to provide education, training and transition to employment opportunities for 16 to 17 year old students with a history of non-engagement with mainstream schooling. The BWP business plan stated that it would:

- Provide an opportunity for disadvantaged young people (through drug, alcohol, social, personal and justice issues) to find a pathway of reintegration into education and the broader community.

- Develop the employability [sic] skills and work readiness of students to enable them to access greater employment opportunities thereby increasing the number of local youth commencing work upon leaving school.⁹

1.21 Many of the students enrolled in the program had some involvement in the justice system, while the others were under the care of the Chief Executive Officer of the Department of Child Protection, formerly the Department of Community Development (DCD).

The intent of the education component

1.22 The education component of the BWP was based at the BSHS and managed by a private provider.¹⁰ The students were enrolled in the BSHS and completed activities throughout normal timetabled classes during standard school hours.¹¹ An overview of the education component of what the BWP intended to achieve is set out at **Appendix 5**. Key features of the education program included:

- A 10 stage program and transition to TAFE, employment or employment-based training depending on student outcomes. The 10 stages are outlined in Appendix 5. The 10 stages comprise:¹²
 - a) a balanced and broad education program which included fundamental literacy and numeracy skills development through delivery of certificates in general education for adults, general life skills education, employability skills and community skills development;
 - b) training in areas of specific industry shortage which are ideally based in sustainable trades, particularly mining, engineering, building and construction, and automotive industries; and

⁸ Submission No 15 from the DET, August 2007, p2.

⁹ The Balga Works Programme Business Plan, April 2006, p5 and Balga Works Program (BWP) Model.

¹⁰ The Balga Works Programme Business Plan, April 2006.

¹¹ Balga Works Program (BWP) Model.

¹² Balga Works Program Progress Report, December 2005 and Forward Planning 2006 Draft, p3.

c) paid industry placement.

- Small class sizes.
- Mentoring throughout the program.

The accommodation component

1.23 The accommodation component of the BWP provided housing for some of the students enrolled in the BWP. The accommodation, located in Joondalup, was supervised by carers, who lived on the premises and provided care to the students outside of school hours.¹³ Food, linen, cutlery, crockery and the basic necessities for an independent home life were supplied by the private provider who was responsible and accountable for this aspect of the program.¹⁴

Ancillary components of the BWP

1.24 The BWP purported to offer the following ancillary services:

Outreach

1.25 BWP operated the “Northbridge boom bus”, so named for the flashing lights and loud music which was played on the bus. On weekends, the bus picked up young people from Northbridge at night and took them to the Balga-Morley Police and Community Youth Centre (PCYC) where the Aboriginal Police Liaison Officers and volunteer police officers worked with them. At the PCYC activities included basketball, gym, boxing, and theatre. An internet café and a pool room were also available.¹⁵

After-school programs

1.26 BWP offered after-school programs at the PCYC and Joondalup such as boxing, music, fitness, surfing and yoga.¹⁶

Rehabilitation

1.27 The BWP offered rehabilitation support through a detoxification program and diversionary activities, including a surfing and yoga program, and a retreat in Gracetown, Margaret River.

¹³ Accommodation Services Carer’s Guide.

¹⁴ Fifth Submission from the DET, Attachment E, September 2007.

¹⁵ The Balga Works Programme Business Plan, April 2006, p11.

¹⁶ Balga Works Program Progress Report (Nov 2005) and Forward Planning 2006 DRAFT, p7.

Transport

- 1.28 BWP provided transport to pick up students and take them to school. The BWP also provided a transport service to pick up students from school and take them to appointments including to, for example, court and justice compliance meetings, mental and personal health appointments.¹⁷

Management

- 1.29 The BWP was a collaborative project between the BSHS, the Balga Senior High School Parents and Citizens Association Inc (**P & C**) and a private service provider, run through the BSHS.
- 1.30 The private provider was providing program planning, development, operations, reviews and evaluations as well as accommodation, transport, after school care and other program initiatives. All resources for the direct delivery of the BWP, including staffing were the provider's responsibility, except for the provision of the learning environment, for example, classrooms and toilets, and administrative support which were provided through negotiation with the Principal of BSHS.
- 1.31 BSHS had line management responsibility for planning, resourcing, implementing and accounting for the BWP. The school's facilities were used to house the BWP.¹⁸
- 1.32 The P & C assisted the private provider in sourcing funding for the BWP.

TERMINOLOGY

- 1.33 The concept for the BWP originated from a proposal to adopt and adapt a training and employment program for disadvantaged youth in Melbourne run by Manufacturing Industry Training Services Pty Ltd (**MITS**) a private registered training organisation. The concept was developed through a number of proposals culminating in the BWP. As the proposals evolved the terminology used to refer to the concept also changed. The various terms used are outlined below:

- i) The MITS Re-engagement Program (May 2004)
- ii) Balga Senior High School Youth at Risk Education and Training and Employment Project (Manufacturing and Mining Industries) (May 2004)
- iii) Swan Education District Process Fabrication, Manufacturing and Mining Industries Vocational Education and Training Project Proposal (July 2004)

¹⁷ The Balga Works Programme Business Plan, April 2006, p11.

¹⁸ Briefing Note Request - Ministerial No 2589, Subject: Balga Works, 29 July 2005.

- iv) Mining and Manufacturing Industry Training Scheme (MITS) - Balga Senior High School (September 2004)
 - v) Process Fabrication, Manufacturing and Mining Industries Vocational Education and Training Project Proposal (October 2004)
 - vi) Mining, Manufacturing Industry Training Scheme (October 2004)
 - vii) Balga SHS/MITS Vocational Education and Training Partnership (October 2004)
 - viii) Balga Senior High School/MITS Vocational Education and Training Partnership - Process Fabrication, Engineering, Manufacturing and Mining Industries Vocational Education and Training Project (October 2004)
 - ix) Balga (MITS) Program to be called “Swan Works” (November 2004)
 - x) Balga Works Program (January 2005)
- 1.34 The BWP was effectively a trial and precursor of the broader Swan Works Program, which was a key initiative of the Swan District Education and Training Plan. To date the Swan Works Program has not been established.

NEED FOR THE INQUIRY

- 1.35 The Committee has heard evidence during its inquiry that has led the Committee to conclude that the BWP was an abject failure.
- 1.36 The Committee has heard that whilst working in the program many of the staff did not receive regular pay, they were verbally and physically assaulted by the students,¹⁹ they were not provided adequate support and were bullied, and lied to by Mr Michael Carton.
- 1.37 In retrospect, witnesses were able to identify that they were persuaded by Mr Michael Carton to collude in covering up some of the program’s deficiencies. This led to some of the failures of the program not being exposed until this inquiry.
- 1.38 The experience of the BWP has left many of the former employees emotionally and financially scarred. Some of the former employees feel that they have not had closure on the BWP and are still suffering. They feel that their experience in the BWP has not been acknowledged and that no one cares. The Committee heard evidence from some of the staff that:

¹⁹ Submission Nos 6, 9, 13, 14 and 16.

- 1.38.1 The stress of working at the BWP has led them to alcohol and substance abuse and depression.²⁰
- 1.38.2 The stress of working at the BWP had impacted on their ongoing ability to work.²¹
- 1.38.3 Not being paid a regular wage has had a devastating impact on their personal life. For example, they have had to refinance mortgages, take out personal loans and use credit cards to pay bills, default on mortgage payments and default on credit card payments.²²
- 1.39 An example of this evidence from a former employee was:

*During my time at BWP [I] experienced non payment of wages or superannuation. I also had to take out personal loans and obtain credit cards to compensate for this non payment of wages. I have subsequently overcommitted my self financially and have been unable to meet regular payments on these debts and I am on the verge of bankruptcy because of it. At the time of my employment at BWP I had custody of all my children. Due to my financial hardship I was unable to provide adequately for them and they have since returned to the care of their mother. Since returning to work I have had to pay a high amount of child support that has only made my financial position even harder. Since leaving BWP I have experienced a lot of depression at times have nearly lost the will to continue my life the way it has turned out. I feel that nobody cares about what went on there or the effects that it has had on so many lives. I am currently working with at risk youth again but have to admit I haven't the same passion as I used to.*²³

and a further example was:

As a result of the experiences I suffered Depression I had had on two occasions being forced to do some creative accounting by rearranging my accounts to save my mortgage, not to mention the stress and pain caused to my family and friends as a direct result of the pressure I was under, not only to keep myself from slipping further in a deeper depression but to try and keep my house and my sanity my relationships did suffer tremendously. It has taken me a long time

²⁰ Submission No 16.

²¹ Submission Nos 1, 4 and 16.

²² Submissions No 4 and 14.

²³ Submission No 14.

and a lot of effort to come to terms with my treatment and the total mismanagement of the Balga Works Programme and all of the young people and the staff that have been bullied and abused by Michael Carton and his cronies and it is only now after seeing that some one actually gives a damn about us and what we have been subject to that I am coming out of what I and my family and friends have been through. I am still on anti-depressants and under a doctors care for some after effects of the time in my life but as I can now see a light at the end of this very dark and very long tunnel I pray that we can get closure on this and make sure that no one else will have to go through what we have and had to suffer as we have.²⁴

- 1.40 The Committee heard evidence that a number of students to whom the BWP offered an opportunity for a fresh start in life have been left with nothing but disillusionment. Many of the students who were supposed to benefit from the program are still tackling drug and alcohol abuse, some are now back out on the street and some are recidivist offenders.

- 1.41 Evidence received included:

The impact has been great to the kids. Their trust was abused; they were the most disadvantaged youth, who were promised many things, which were never delivered.²⁵

and a further example:

The things that I was promised never came true and my life has been harder since because I went back to what I know, which was drugs.²⁶

- 1.42 The Committee notes the role of the former workers of the BWP in raising community awareness of the issues surrounding the operation of the BWP, by taking their concerns to Members of Parliament. In particular, their concerns about the non-payment of wages, tax and superannuation, and also their concerns about inappropriate practices within the program.

Committee Comment

- 1.43 The intention of BWP was to offer education, assistance and support to young people disengaged from mainstream schooling and also to those in the juvenile justice system. This included an opportunity to address the personal, social and economic costs associated with at risk disengaged young people, including long-term

²⁴ Submission No 6.

²⁵ Submission No 4.

²⁶ Submission No 5.

unemployment, juvenile offending, teenaged pregnancies, suicide, personal health problems and negative impacts on the community.²⁷

- 1.44 The BWP operated for less than two years before it was closed down. The Committee received allegations that in this time the program failed to provide the services that were promised to the young people, that the government failed to provide duty of care to the students, that there were poor working conditions, that management was inadequate, that staff intimidation occurred, and that staff did not receive the proper award rates and conditions and were not paid.
- 1.45 The Committee in its inquiry has attempted to ascertain the validity of these allegations and discover the reasons behind the closure of the BWP. The Committee has identified a number of issues surrounding the BWP. In its report the Committee aims to inform the Parliament of these issues and the reasons behind the program's failure. The Committee highlights the ongoing need for a program of this type in Western Australia and makes recommendations to assist in the establishment of such a program in the future.
- 1.46 The Committee advises that it was hindered in its inquiry by the lack of adequate record keeping during the establishment and operation of the BWP. Therefore, despite a lengthy and thorough inquiry the Committee could not investigate every aspect of the BWP. For example, the Committee has not investigated:
- the validity and efficacy of the services and programs provided by the BWP, such as, the detoxification program; and
 - what happened to all of the funding that was provided to BWP.

²⁷ BSHS Vocational Education and Training (VET) Project Proposed Process Fabrication, Engineering, Manufacturing and Mining Industries Vocational Education and Training Project, Swan Education District, November 2004, p5.

CHAPTER 2

EVENTS SURROUNDING THE ESTABLISHMENT OF THE BALGA WORKS PROGRAM

BACKGROUND TO THE BWP

The MITS program

- 2.1 The BWP was based on a program being run by a Victorian company, Manufacturing Industry Training Services Pty Ltd (**MITS**). MITS was providing career guidance, training and skills development (**MITS Program**), accepting a client base that included youths from disadvantaged backgrounds, and those with social problems including drugs and homeless situations.²⁸
- 2.2 In early 2004, the Principal of BSHS, Mr Mervyn Hammond was made aware of the program being run by MITS by one of his staff members, Mr Mark Carton. Mr Mark Carton's brother, Michael Carton was working for MITS at this time.²⁹
- 2.3 Mr Hammond approached Mr Robert Somerville, Director, Aboriginal Education and Training Services, DET and Mr Gary Hodge, a consultant and Chair of the Community Safety and Crime Prevention Council at that time, about the MITS Program. In May 2004, Mr Hamond along with Mr Somerville and Mr Hodge visited the Victorian operations of MITS to see the MITS Program.³⁰
- 2.4 On how the BWP came to be established Mr Hammond advised the Committee:

I was approached by one of my staff members about an interesting program in Melbourne for difficult students, and that was called MITS. In fact, Michael Carton, who worked for MITS, eventually rang me, and then came over and made a submission with his CEO, John McQuay, and, on balance, it seemed that the great strength of the program, which was based on manufacturing in Melbourne, could be and should be transferable to Perth, and so that presentation indicated that this was worth looking at. Other people I invited to the presentation: there was Bob Somerville, the director of Aboriginal education at DET. So that was the initial starting point. Because I run Balga on a series of different programs - so there is nothing

²⁸ Gary Hodge Consultancy, *Swan Education District Proposed Process Fabrication, Manufacturing and Mining Industries Vocational Education and Training Project Draft Report*, June 2004, p34.

²⁹ Mark Carton, *Transcript of Evidence*, 10 October 2007, p2.

³⁰ Submission No 15 from the DET, August 2007, p2.

conventional about the school; in fact, it has 11 separate, or it had 11 separate programs which related, in the main, to students at risk. I just mention that because one of the programs which did relate to students not going on the dole and joining the workforce was actually called the No Dole program. I was a speaker at a No Dole conference in Melbourne which was funded by the AMP and the Beacon Foundation, so I was in Melbourne, and MITS, through Michael Carton, invited me to have a look at the operations of MITS. At the same time there were some other Perth-based people in Melbourne on different matters to me, namely, again, Bob Somerville, and Gary Hodge. We went and had a look at the program, interviewed some students, realised that some of these Melbourne students were coming from, you know, the wrong side of the fence, and it seemed exactly what we needed to start in Perth, particularly for Balga, with a high Aboriginal content and a high migrant content. It seemed exactly the program that we needed. It was not something that I decided by myself; there was Bob Somerville, the director of Aboriginal education, as I said, and Gary Hodge. We discussed it at length over a period of time and the program slowly unfolded.³¹

Scoping exercise commissioned by the DET

- 2.5 Recognising the potential of the program Mr Somerville commissioned a scoping exercise on the feasibility of operating such a program in Western Australia, with the aim of presenting a proposal to the corporate executive of the DET. Mr Somerville engaged Mr Gary Hodge as a consultant in June 2004 to undertake the ‘environmental scan on Balga Senior High School Youth at Risk Education and Training and Employment Project (Manufacturing and Mining Industries)’, and to report on the research and policy parameters around such a program in Western Australia.³² This consultancy was conducted under the direction of a steering group that comprised Mr Hammond, Mr Somerville, Mr Michael Carton, and Mr Mike Jakins, Executive Officer of the Process Manufacturing Industry Training Council of Western Australia.³³ As explained by Mr Somerville:

... Coming back from that I provided some advice to my executive director about the potential of the program itself and also spoke with the deputy director general about the potential of the program, and at that stage both myself, Merv and Gary Hodge decided this might be worthwhile looking into to provide a possible program along these lines.

³¹ Mervyn Hammond, former Principal, BSHS, *Transcript of Evidence*, 7 November 2007, pp2-3.

³² Gary Hodge, *Transcript of Evidence*, 4 October 2007, p2.

³³ Submission No 15 from the DET, August 2007, p2.

Hon PETER COLLIER: *Who was the director general, executive -*

Mr Somerville: *The deputy director general was Margaret Banks at that particular time. At that stage we decided to do some preliminary work on working up a possible equivalent of MITS here for Western Australia. I needed to be convinced that there was the scope around the Balga area; in other words, there was a number of disengaged youth there. All the information we were told was gut reaction information, so I wanted to find out how many kids were not engaged in training or education at that particular stage and also whether or not there were industries in the Balga and Malaga area that could possibly take on something similar to the motor industry trade scheme. As a consequence of that, we decided to get a scoping exercise up and underway. Now, we did not place a tender out. What we decided to do was to use Gary Hodge's consultancy to do that work for us, so that we could put a submission through to corporate executive on a program such as this. Gary was very, very interested. The scoping exercise was overseen - not under seen, overseen - by a small working party.³⁴*

Reporting by a public servant

- 2.6 Mr Somerville advised that he did not write a formal report following his visit to MITS in Melbourne:

Hon KEN TRAVERS: *The other thing is, as a result of the visits to Victoria, was there any paperwork generated as a result of that; any reports developed by people - yourself or others - that came from those visits?*

Mr Somerville: *I probably put a briefing note together, but I cannot recall a briefing note. I tried to find one. I certainly briefed my executive director when I came back in detail about the program that was there.³⁵*

Committee comment

- 2.7 The Committee is of the view that for accountability purposes it should be a requirement for a public servant to make a formal written report following any travel for a public purpose.

³⁴ Robert Somerville, Director, Aboriginal Education and Training, DET, *Transcript of Evidence*, 15 October 2007, pp2-3.

³⁵ Ibid, p10.

- 2.8 Where part of the purpose of travel is to inform public officers of the operation of a program in another jurisdiction, the report should detail the information and knowledge acquired.

Recommendation 1: The Committee recommends that the Government develop guidelines requiring all public servants to report on the outcome of travel undertaken for a public purpose.

Meeting with the Minister for Education and Training

- 2.9 On 3 August 2004, Mr Hodge and the steering group met with Mr Alan Carpenter MLA, the then Minister for Education and Training (**Minister Carpenter**), about the work of the consultancy and a proposal for the BSHS to deliver the MITS Program (**MITS/BSHS proposal**). Mr Somerville advised the Committee:

Then Gary decided to organise a meeting with my minister at the time, and that was Alan Carpenter, to provide Alan with some advice about the potential of this. He asked MITS to draw up a proposal for MITS to deliver the program in that Balga region, rather than the school, but MITS to deliver the program. I went along to that meeting representing Margaret Banks, because Margaret was invited as the deputy director general, and Margaret asked me to go because, of course, I was putting the scoping exercise together and so on. At that meeting a proposal was put together which I think, off the top of my head, was around \$2 million a year; it was very, very expensive. While the minister liked the idea, he straightaway said that he was not going to fund a \$2 million proposal. He like [sic] the idea, liked the concept, but cut the meeting fairly short at that particular stage.³⁶

- 2.10 The briefing note provided to Minister Carpenter by the DET in preparation for the meeting (attached at **Appendix 6**), stated that funding was being sought to the extent of \$2.2 million in 2005, rising to \$8.5 million over three years, for BSHS to deliver the MITS Program. The recommendation to the Minister for Education and Training contained in the briefing note was that he note the initiative, and that he refer the proposal to the DET for further analysis and evaluation, and in particular, for the initiative to be considered as part of a District Education and Training Plan (**DETP**).
- 2.11 Mr Hammond's line manager, Mr John Garnaut, District Director, Swan Education District, DET advised the Committee that he had no involvement in the initial paper by Mr Gary Hodge and recommended to Mr Greg Robson, his executive director, that the Minister not support the concept:

³⁶ Ibid, p3.

I can check the date of the meeting, but a few days before the meeting Greg Robson, my executive director, rang me and said, "Are you aware of a meeting happening with Merv Hammond and the minister, and are you aware of what is being presented?" I said that I was not aware of that. My advice to Greg was that because the meeting was to do with MITS - it might have been called MITS or another name because different terminology is used for these various programs - we did not have enough detail, and in the briefing he should comment that it would not be supported at this stage. My understanding is that a briefing went to the minister in August that actually gave that direction to the minister.³⁷

- 2.12 Minister Carpenter did not support the MITS/BSHS proposal given the extent of the funding requirements.³⁸

Minister not accurately briefed for the meeting

- 2.13 Mr Hodge submitted to the Committee that Minister Carpenter was under the wrong impression about the purpose of the meeting. He advised that Minister Carpenter was not fully briefed by the DET on the situation regarding the funding of the program.³⁹
- 2.14 Mr Hodge advised the Committee that he met with Mr Kevin O'Keefe, Executive Director, Aboriginal Education and Training and Mr Greg Robson, Executive Director, Teaching and Learning, Curriculum Policy and Support, DET, a week or so prior to the meeting with Minister Carpenter, and explained the funding sources to them, including that it was an enrolment funded driven model. This information was not contained in the project proposal which Mr Hodge provided to the DET for the meeting. Mr Hodge advised that he does not know why the information was not passed on to Minister Carpenter in the briefing note prepared for him.

Mr Hodge: ... *At the time the Premier did not have the report in his hand. He only had a single briefing note. I had not seen the briefing note. I had met, prior to that meeting, to discuss the funding arrangements for this program with both Greg Robson, who is the executive director who is mentioned in my consultation, and with Kevin O'Keefe, the executive director senior to Robert Somerville. I said that it is not my role to recommend the funding. I was there to do the policy. It is up to the department to do the costing and the funding and do all the projected models on assumptions that 200, 300, 400 young people would eventually enrol in this program. That is what I*

³⁷ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 11 July 2007, p8.

³⁸ Submission No 15 from the DET, August 2007, p3.

³⁹ Gary Hodge, *Transcript of Evidence*, 4 October 2007, p6.

*thought would go through to the minister. We spoke for about five minutes. Then the minister stopped us and said, "Excuse me, don't go any further. I know you're here to raise \$7 million." I was flabbergasted because that was not the briefing that I had had with the senior departmental officers ... The briefing I had with the senior departmental officers - if I refer to item 6 in my report, starting from the middle of page 7, I had identified all the relative government policies around youth advantage, plus building prosperity, the Gordon inquiry into family violence, child abuse, etc. But more significantly over the page, towards the bottom on page 8, "Resourcing", these were all the available sourcing funds that I knew of that the department should have given in that analysis to the minister in that briefing note. If they are not there in that briefing note that was provided by the department, at worst, it is gross incompetence but I will leave it up to you. These were the funding sources that could be accessed by the program if these kids turned up.*⁴⁰

And further:

Mr Hodge: *Yes. When I left that meeting - it was a week or so before I met with the minister to make sure they got the notes in time - my understanding was that they were going to add the analysis of all these programs and the recommendations that I imagined were going to go ahead. What I would have expected from the minister on that day would have been that the minister notes that this program would go ahead contingent upon enrolment being reached, the numbers being reached in the enrolment arrangements, so that the funds would flow but, secondly, that he would request that expenditure for that fund be put in place and be assured that those government arrangements be put in place. That is what I thought the recommendations would be in that briefing note.*⁴¹

- 2.15 Mr Hodge further advised that the briefing note prepared by the DET did not accurately reflect the situation:

Hon KEN TRAVERS: *The opening statement, "Attached is a proposal prepared on behalf of Balga Senior High School and MITS." It goes on to talk about it being prepared by you in the capacity as private consultant. Is that an accurate statement?*

⁴⁰ Ibid, pp6-7.

⁴¹ Ibid, p8.

Mr Hodge: *No, it is not because it was commissioned by the education department not by Balga. There are a whole series of things that concern me in this briefing note, that as DG I would not have signed off to a minister. It is misleading.*

Hon KEN TRAVERS: *I know it is hard to take the hypothetical but, if you had received this briefing note without the attached proposal, can you understand why the minister thought you were there to seek up to \$8.5 million of new money?*

Mr Hodge: *Absolutely. I assumed from his comments that he had got something like this. It was an inadequate briefing that really canvassed all the funding options. In saying, "taking up to 35 per cent of available funds" they do not mention the major funding source, which would have been the enrolment-driven funds. I am not sure what the figure is now but about \$8 500 per head would have allocated for every young person who turned up. So, to say that it would absorb 35 per cent of the cap funds is misleading and is not accurate. The major funding components would have come from the enrolments at the time.*⁴²

- 2.16 The now Premier Alan Carpenter MLA, advised the Committee that to the best of his recollection the briefing note, the project proposal or briefing about the funding sources was not provided to him prior to the meeting. The Premier confirmed that he did not support the program based on the costs per student outlined, and he made that position clear at the meeting.⁴³

- 2.17 In response to a question asked in Parliament on the matter, the Premier stated:

*Although I thought that the ultimate outcomes were laudable - that is, more kids would be engaged in education - I actually did not think that the program stacked up at all. The amount of money that was being talked about for state support for such a program was exorbitant. It was in the tens of thousands of dollars per student. My view was that if we were to pay that sort of money, we might as well just pay the students and employ them directly, because the objective was to get students into some form of employment. ... My recollection is that I did not support the program at all.*⁴⁴

⁴² Ibid, p18.

⁴³ Letter from Alan Carpenter MLA, Premier, 4 December 2007.

⁴⁴ Western Australia, Legislative Assembly, Parliamentary Debates (*Hansard*), Tuesday 28 November 2006, p8847.

- 2.18 Mr Hodge advised the Committee that the MITS/BSHS proposal was never contingent on Ministerial approval:

Hon PETER COLLIER: *I understand that but you were making comment that you were surprised the education minister was talking about these figures etc, but he would have been going by the figures that were in that draft report.*

Mr Hodge: *Those figures are probably accurate but they do not identify the funding sources where the \$8.2 million was coming from. My assumption from the conversation of the minister on the day was "You were here to ask me for \$8.2 million." That was never the case. We were not there to ask for \$8.2 million. The analysis should have been by the department that these funding sources, based on the assumptions of one teacher every 16 students or the assumptions in the Ernst & Young report, because of the special needs of these kids, one teacher per eight students. All that is in that report, which was accurate at the time, is some early modelling done around what this program would cost given these certain assumptions.*

Hon PETER COLLIER: *All I am saying is given this, you can understand why the minister for education may have had reservations.*

Mr Hodge: *No, I cannot because if we had had the conversation, it would have been very different. The conversation never got that far. The meeting was short-circuited very, very rapidly before I could talk about governance, before I could talk about the fact that these funding sources here may have added up to \$8.2 million but it was not contingent on ministerial approval.⁴⁵*

Committee observations

- 2.19 The Committee notes:

- a) that Minister Carpenter did not support the MITS/BSHS proposal;
- b) that Minister Carpenter was not fully informed by the DET on the purpose of the meeting and the funding arrangements of the MITS/BSHS proposal;
- c) that the briefing note prepared for Minister Carpenter was not an accurate reflection in view of the knowledge that the DET had at that time; and

⁴⁵ Gary Hodge, *Transcript of Evidence*, 4 October 2007, pp6-7.

- d) the view of Mr Hodge that the MITS/BSHS proposal was never contingent on ministerial approval.

Reporting of the outcome of the meeting with the Minister

- 2.20 Mr Somerville advised the Committee that following the meeting with Minister Carpenter he had a meeting with his executive director and gave her a verbal briefing.⁴⁶
- 2.21 The Committee asked whether it was normal practice not to provide a written report of such a meeting:

Hon KEN TRAVERS: *Is it normal practice at meetings with a minister for departmental officials who are representing the director general or the acting director general to just provide verbal briefings and not to provide a written report of what occurred and what the views of the minister are?*

Mr Somerville: *The - yes, sometimes there is a verbal briefing; other times there may be a written briefing, depending on what the deputy director general may require at that particular time. A verbal briefing seemed to be appropriate at that particular time.*⁴⁷

- 2.22 The Committee notes the advice of the Leader of the House representing the Premier, in a response to a question asked in Parliament on the matter, that there is no record of minutes from the meeting and that there is no record of any written report of the meeting to the DET.⁴⁸

Absence of Ministerial directive not to proceed

- 2.23 Mr Michael Carton advised the Committee that following the meeting with Minister Carpenter, it was his understanding that the Minister did not support the program. However, a week or so after the meeting he was advised that the DET had come up with another method in which the program could proceed:

Mr Carton: *Let me say very clearly that I think it was Gary Hodge was insistent that the minister at the time be approached. I need to make this point very clear. ... Mr Carpenter was approached by a range of education people, along with - I went to that meeting, and a number of others. There must have been 10 or 12 of them, from*

⁴⁶ Robert Somerville, Director, Aboriginal Education and Training, DET, *Transcript of Evidence*, 15 October 2007, p6.

⁴⁷ Ibid, p7.

⁴⁸ Western Australia, Legislative Council, Parliamentary Debates (*Hansard*), Tuesday 19 June 2007, p3261.

memory, and Alan Carpenter was absolutely emphatic that the program was not to proceed. He made that clear. I still remember the veins on the side of his neck swelling when he was shouting. I will never forget that side, and thinking what in the devil are we doing here, because all these bureaucrats had insisted that everything was okay, and we saw Alan Carpenter, who just about basically kicked us out. The net result of that meeting was that a number of department staff, along with consultants employed to start this, got together and came up with an approach under some other funding where it could proceed. There was a committee set up, which was called Swan Works at the time, and that was to look at it. It was then agreed that it could not proceed under Swan Works, but it came through education and the directorate that it would be Balga Works, and that was how it was to proceed. Where the minister got to in it, I do not know, but the only thing I know is that Alan Carpenter absolutely basically said, "Get out of my office", and that is where it finished with the minister at the time. ... I will say that Alan Carpenter said exactly what he believed, and made it very clear to everybody at that time what the situation was. Within a week, I was assured that all of that had been sorted out, and that the department was able to proceed with the program. In fact, it was less than a week.

Hon HELEN MORTON: *Who gave you that assurance, or how did you get that assurance?*

Mr Carton: *Initially, that came from Mr Hammond. It came from - I believe I was told that there had been funding supplied by one of the other departments within the department, and I cannot remember what that department was - oh, it was Aboriginal education, that provided some seed funding, and that those matters had been resolved, and I was not to worry about them; that was the politics of education.*⁴⁹

- 2.24 Mr Somerville advised the Committee that following the meeting with Minister Carpenter he still felt there was a broad level of support from the DET for the concept, just not the BSHS/MITS proposal and he portrayed this to Mr Hammond:

Mr Somerville: *The minister at the time was very clear that the Department of Education and Training was not going to fund the \$2 million, but was supportive of the concept of a program that re-engaged youth, particularly Aboriginal youth, back into the schooling system, so there was no direct support of the MITS program to go into*

⁴⁹Michael Carton, *Transcript of Evidence*, 22 October 2007, pp10-11.

the school; it was support of the concept of re-engaging Aboriginal youth. That was very clear.

Hon HELEN MORTON: *Did that support extend to the project that was being developed at the time around Balga?*

Mr Somerville: *It was not supportive of the MITS program; that was very clear.*

Hon HELEN MORTON: *Say we take MITS out of the equation altogether - the actual program that was being established?*

Mr Somerville: *Certainly I left the meeting with the feeling that the minister supported the concept of a program around engaging youth, but not MITS itself.*

Hon HELEN MORTON: *I am more interested in how you relayed that information to other people in your area and in your government agency.*

Mr Somerville: *I relayed back to the deputy director general that I was keen on progressing a submission to corporate executive about a program similar to MITS that would re-engage Aboriginal youth in the Balga area.*

Hon HELEN MORTON: *Did you get that submission out?*

Mr Somerville: *No.*

Hon HELEN MORTON: *What happened to that?*

Mr Somerville: *It was - the submission did not go ahead because it was to be embedded within the education and training plan within the district, so that is the reason it did not go forward.*

....

Hon HELEN MORTON: *Did you relay your understanding of the broad level of support for the concept to Merv Hammond?*

Mr Somerville: *I would think so, yes.*⁵⁰

...

⁵⁰ Robert Somerville, Director, Aboriginal Education and Training, DET, *Transcript of Evidence*, 15 October 2007, pp7-8.

The CHAIRPERSON: Were you aware that Merv Hammond and Michael Carton were setting up the program in late 2004 anyway? I mean, that they were going ahead and setting up a program?

Mr Somerville: I understood it [BWP] was through the district, and the district was working on it through the plans, and I knew Merv [Hammond] wanted to set the program up. I did not know what Michael Carton's involvement was at that time. He had been used as a consultant and was prepared to fly over on his own money to assist Merv get the program up, so I thought it was still in the same ilk - that he was being used as a consultant.⁵¹

- 2.25 However, it was Mr Garnaut's submission that he was not aware of any ministerial directive not to continue with the program:

Hon PETER COLLIER: Back in August of 2004, if the minister had said that the program were not to continue, would you have adhered to that directive?

Mr Garnaut: In August -

Hon PETER COLLIER: Of 2004.

Mr Garnaut: - 2004 there was a meeting of Merv Hammond and Gary Hodge and maybe others with the minister, and I contributed to the advice to the minister through my executive director Greg Robson; the advice was not to approve that particular program, which was asking for \$8 million over three years, and that was the Hodge paper.

Hon PETER COLLIER: Yes.

Mr Garnaut: And so if the minister's directive had been such, we would have implemented such.

Hon PETER COLLIER: Okay. So if the minister makes that decision, you know, the department will adhere to the minister's wishes.

Mr Garnaut: That is normal procedure.⁵²

⁵¹ Robert Somerville, Director, Aboriginal Education and Training, DET, *Transcript of Evidence*, 15 October 2007, p8.

⁵² John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p26.

Committee comment

- 2.26 The Committee notes that it was clear from the meeting with Minister Carpenter that he did not support the MITS/BSHS proposal. Further, the Committee has not received any evidence that suggested that Minister Carpenter supported this proposal.
- 2.27 The Committee notes that there are no minutes or written record of the meeting. Further, that the DET officer present at the meeting did not take a written record of the Minister's position and provide it to the DET.
- 2.28 Given the tone of the meeting with Minister Carpenter and the Minister's clear objection to the project proceeding, the Committee is of the view that Mr Hammond, Mr Michael Carton and Mr Somerville would have been aware that it was not appropriate to proceed with the program.

The scoping exercise continues

- 2.29 Following the meeting with Minister Carpenter the work of the consultancy continued to be progressed. Mr Somerville advised the Committee:

We went back again to work on the proposal to corporate executive. I had found about \$250 000 in my training budget that we could possibly put towards it, because I did not want to put a proposal to corporate executive with no funding; and at the same time I provided advice to Merv about putting up some proposals to the competitive allocation for training funding. So there were some other funding sources that he might have been able to tap into.⁵³

- 2.30 In September 2004 Mr Hodge and Mr Hammond met with Mr Paul Albert, then Director General, DET, to discuss the proposal now being referred to as the MITS/BSHS vocational partnership project.⁵⁴
- 2.31 At the Director General's request, work was being undertaken to redraft the budget for the project which at the time presented a full cost model, but no analysis on how enrolment driven resources and other resources could be applied. The recast budget was to provide this information. To ensure affective governance of the project and to oversight the project's research and evaluation dimensions a cross-government steering group was proposed to be set up.⁵⁵

⁵³ Robert Somerville, Director, Aboriginal Education and Training, DET, *Transcript of Evidence*, 15 October 2007, p3.

⁵⁴ Briefing Note from Robert Somerville, Director, Aboriginal Education, Training and Services, DET to Director General, DET, 17 September 2004 and Email from Mervyn Hammond, Principal, BSHS, to Paul Albert, Director General, DET, 24 September 2004.

⁵⁵ Briefing Note from Robert Somerville, Director, Aboriginal Education, Training and Services, DET, to Paul Albert, Director General, DET, 29 September 2004.

- 2.32 The work being undertaken to develop the MITS/BSHS vocational partnership project was noted by Mr Greg Robson, Executive Director, Teaching and Learning, Curriculum Policy and Support, DET, in a briefing note to the Director General, including that there had been continuing discussion at a number of points within the organisation and with other parts of government in relation to the MITS/BSHS proposal. It was also noted that the project proponents had applied for Competitive Allocation of Training funding and User Choice funding from the DET and that they had met with representatives of the Department of Premier and Cabinet.⁵⁶
- 2.33 The handwritten diary notes of Mr Garnaut also refers to the activity of the project proponents as follows:

*Merv & G Hodge, have approached D Training to get funding - CATS
(Private TRG Services)*

- User Choice

Also to Premier & Cabinet

...

*Very messy/untidy piece of work. Hodge & Hammond continue to go
around the processes.⁵⁷*

- 2.34 Mr Robson recommended to the Director General that the proposal continue to be considered through the processes established by the DET and that accurate, valid costings and forward projections for take up be required in the context of the Swan DETP.⁵⁸ The Committee notes that this recommendation was consistent with the recommendation contained in the briefing note to Minister Carpenter dated 2 August 2004.

Committee comment

- 2.35 The Committee notes that despite Minister Carpenter's clear position, senior officers of the DET continued to develop the funding and establishment of the program using alternative funding models.

⁵⁶ Briefing Note from Greg Robson, Executive Director, Teaching and Learning, Curriculum Policy and Support, DET, to Paul Albert, Director General, DET, 30 September 2004.

⁵⁷ Diary notes of John Garnaut, District Director, Swan Education District, DET, 21 September 2004.

⁵⁸ Briefing Note from Greg Robson, Executive Director, Teaching and Learning, Curriculum Policy and Support, DET, to Paul Albert, Director General, 30 September 2004.

The scoping exercise not supported by the Swan Education District and Swan TAFE

- 2.36 Mr Garnaut advised the Director General that he and Mr Wayne Collyer, Managing Director of Swan TAFE did not support the scoping exercise:

... At the end of the day, Wayne Collier [sic] and myself, in late 2004, wrote to the director general directly and said that he was about to receive a paper from Mr Hodge, and that both Mr Collier [sic] and I have had no significant input into the evolution of it, and we do not support it. So, in 2004, there was significant activity happening in the evolution of this program that was completely outside of line management. So, yes, I did have two discussions with Gary Hodge on his paper that was evolving. He actually had me listed, within one of his drafts, as a member of his steering committee on his project. I never attended a steering committee meeting, and I was never involved in any steering committee activity.⁵⁹

The MITS/BSHS proposal incorporated into the Swan Works Program

- 2.37 In late September 2004, the Director General made a decision that the MITS/BSHS proposal was not to go to the DET Corporate Executive but was to be instead incorporated into the DETP. Mr Garnaut and Mr Collyer were directed to take over the proposal and to manage the DET's interest in it.⁶⁰ As stated by Mr Garnaut:

In 2004 the work that we spoke about previously was undertaken with Gary Hodge, Merv Hammond and Bob Somerville visiting the MITS program and coming back excited about a concept that they thought would work in Western Australian schools. Through our director general and other senior officer involvement, it was decided that more work needed to be done on that proposal and it should not proceed as it is. As a result of that, I and Wayne Collier [sic], the general manager of Swan TAFE, were asked by Greg Robson, the executive director, to set up a process to refine a paper to represent how this process may work in schools and present it to them.⁶¹

- 2.38 Mr Hammond and Mr Michael Carton were advised of this decision on 28 September 2004, specifically that.⁶²

⁵⁹ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p44.

⁶⁰ Email from Paul Albert, Director General, DET, to Gary Hodge, Consultant, 18 October 2004.

⁶¹ John Garnaut, District Director, Swan Education District, DET *Transcript of Evidence*, 11 July 2007, p7.

⁶² Submission No 15 from the DET, August 2007, p3.

- a) the program would continue to be considered through a process established by the DET; and
- b) more financial information and forward projections were required before the program could be approved to proceed.

2.39 The Minister for Education and Training was also advised:

The project proponents met with the Minister for Education and Training in August 2004. ...

Subsequently, the project proponents have applied for funding under several programs, which operate through the Training area of the Department. They are also in discussion with the Directors of the Swan Education District, the Managing Director of Swan Tafe to seek consideration of their proposal as part of the District Education and Training Plan (DETP). ...

Recommendations

It is recommended that:

- *The MITS proposal continue to be considered through the process established by the Department of Education and Training for all 15 to 19 year old strategy initiatives; and*
- *Accurate, valid costings and forward projections for take up be requested/required in the context of the Swan District Education and Training Plan.*⁶³

2.40 The Director General wanted further work done on the proposal and he “*was puzzled to understand why BSHS would need to enter a partnership on the school site with a Victorian private RTO [registered training organisation] rather than one with Swan TAFE*”.⁶⁴ As stated by the Director General in an email to Gary Hodge:

The Department nor the school will enter any arrangement with MITS or any other provider for that matter until:

1. *The resourcing requirements for the project and its ongoing operation are clear.*
2. *The operation of the program is clear.*

⁶³ Briefing Note from the Director General, DET, to the Minister for Education and Training, ‘Manufacturing Industry Training Services - Balga Senior High School Proposal’, 13 October 2004.

⁶⁴ Email from Paul Albert, Director General, DET to Gary Hodge, Consultant, 18 October 2004.

3. *The policy implications of inviting a private provider from another State without any tendering process or due regard to local public and private providers have been addressed.*

For your information, the Department already has four similar projects in place and is currently pursuing an additional project in another region of the State. In relation to the Balga proposal, at this stage, the Department has not been able to assess the merits of the proposal on the basis of the information provided so far, nor judge it against other similar projects that are already in place.

*As I indicated to you, John Garnaut, District Director of Swan, and Wayne Collyer, Managing Director of Swan TAFE, have been given responsibility for making a recommendation on the project. I suggest that you work with them. ...*⁶⁵

- 2.41 From the DET's perspective, the MITS program envisaged for the BSHS by Mr Hammond became incorporated into a program that would have broader input and application, which became known as the Swan Works Program.⁶⁶
- 2.42 In October 2004, Mr Garnaut and Mr Collyer commenced preparation of a position paper to inform the DET Corporate Executive on the proposed Swan Works Program which would be different in character from the MITS program for the school.⁶⁷
- 2.43 Mr Hammond and Mr Michael Carton sought to have their proposal incorporated into this new program.⁶⁸
- 2.44 A working party, known as the Swan Works Steering Committee, was established to support the preparation of the position paper. Mr Hammond and Mr Michael Carton were members of the working party. The preparation of the position paper involved, amongst other things, reviewing the consultancy reports prepared by Mr Hodge.⁶⁹
- 2.45 The position paper was completed on 26 November 2004. It provided that:⁷⁰
- a) the MITS Program would not be used but a program consistent with the MITS concept would be developed and that this would be the Swan Works Program;

⁶⁵ Email from Paul Albert, Director General, DET to Gary Hodge, Consultant, 22 October 2004.

⁶⁶ Submission No 15 from the DET, August 2007, p3.

⁶⁷ Ibid.

⁶⁸ Briefing note from Paul Albert, Director General, DET, to the Minister for Education and Training, 'Manufacturing Industry Training Services - Balga Senior High School Proposal', 13 October 2004.

⁶⁹ Submission No 15 from the DET, August 2007, p3.

⁷⁰ Ibid.

- b) the deliverer of the program would not necessarily be MITS and a local TAFE college could have a role in the delivery of the program; and
 - c) if significant funding were to be provided to a non-government organisation to deliver that program then there would need to be a tender for that delivery arrangement.
- 2.46 The position paper was submitted to the DET at a meeting held on 3 December 2004 with Mr Robson, Mr Garnaut, Mr Hammond and other interested parties. In December 2004 from the perspective of the DET, the Swan Works Program was the basis for the development and implementation of the program. Mr Hammond and Mr Michael Carton were aware of this position through their involvement with the position paper.⁷¹

Swan Works Position Paper recommendation - BWP trial in 2005

- 2.47 A key recommendation of the position paper on the Swan Works Program presented to Mr Robson by Mr Garnaut and Mr Collyer on 3 December 2004 was the approval of a trial program at BSHS in 2005.⁷²
- 2.48 The Committee was advised that the position paper was not presented to the DET's Corporate Executive in December 2004, because following discussion with the then Director General, there were still concerns about the financial implications and what role TAFE would play.⁷³
- 2.49 In response, Mr Hammond contacted the Director General advising him that it was his understanding that the report was to be considered by Corporate Executive to enable approval to be given to the BSHS, prior to the end of the 2004 school year, so that commencement of the trial at the start of 2005 could occur.⁷⁴ As the Corporate Executive was not presented with nor had considered the report, Mr Hammond sought Mr Albert's urgent consideration and approval of the trial directly to enable it to commence in 2005 as planned.⁷⁵ The DET advised that they have no record of any response to Mr Hammond's email.
- 2.50 By 21 December 2004 Mr Hammond was advised orally and by email that although there was in principle support for the program it would probably start in Semester 2, 2005, after more detail about the financials and TAFE role was available. This

⁷¹ Ibid, p4.

⁷² Swan Education District, Swan TAFE, 'Swan Works' Project, A Position Paper on a Proposed 'Swan Works' Project at Balga SHS 2005, November 2004, p12.

⁷³ Submission No 15 from the DET, August 2007, p4.

⁷⁴ Email from Mervyn Hammond, Principal, BSHS, to Paul Albert, Director General, DET, 15 December 2004.

⁷⁵ Ibid.

position was formally confirmed in a letter dated 17 January 2005 from Mr Robson to Mr Garnaut, which was subsequently forwarded to Mr Hammond on 18 January 2005.⁷⁶

Committee observations

- 2.51 The Committee notes that work progressed on the MITS/BSHS proposal in September 2004, under another name.
- 2.52 Further, that the work of the consultancy progressed on what was now being referred to as the MITS/BSHS vocational partnership project with instruction from the Director General for further work to be undertaken on the budget for the program.
- 2.53 The Committee notes that both the Director General and the Minister for Education and Training received a briefing note regarding the work being undertaken by the consultancy (see paragraphs 2.32 and 2.39).
- 2.54 It appears to the Committee that the MITS/BSHS vocational partnership project proposal had varying levels of support from officers within the DET.
- 2.55 The Committee notes that:
- a) carriage of the MITS/BSHS vocational partnership project proposal was given to Mr Garnaut and Mr Collyer by the Director General, to be considered as part of the DETP and that the program became incorporated in the Swan Works Program;
 - b) the Director General had concerns with the MITS/BSHS vocational partnership project proposal; and
 - c) that the Swan Works Program whilst it had in-principle support from the DET was not ready to commence until at least Semester 2, 2005.
- 2.56 The Committee has not received any evidence to suggest that Mr Hammond was given formal approval to commence a trial of the Swan Works Program at BSHS in 2005.

MITS/BSHS proposal continues to be developed in 2004

- 2.57 From September to December 2004, whilst the Swan Works Program was being developed, Mr Hodge continued with his consultancy and was liaising with officers of the DET and others, including the Department of Premier and Cabinet⁷⁷ to provide the information requested by the Director General at their meeting in September 2004.

⁷⁶ Submission No 15 from the DET, August 2007, p4.

⁷⁷ Briefing Note from Greg Robson, Executive Director, Teaching and Learning, Curriculum Policy and Support, DET, to Paul Albert, Director General, DET, 30 September 2004.

- 2.58 Also, during this period, delivery of the MITS/BSHS proposal continued to be pursued by Mr Hammond and Mr Michael Carton.
- 2.59 On 13 September 2004, a funding grant from the Office of Crime Prevention was approved for \$44,000 to fund the setting up of the program for September to December 2004, specifically to fund the appointment of a part-time Placement and Community Liaison Coordinator for the establishment of the BWP. This funding had been sought by the P & C in August 2004.

Grant from the Office of Crime Prevention

- 2.60 This grant was approved by the Minister for Community Safety, on the understanding that DET Aboriginal Vocational and Educational Training Division were contributing \$250,000 to the Program.⁷⁸ As stated by Mr Thorn, Director of the Office of Crime Prevention:

Mr Thorn: One of the issues that I was concerned about was that we were really fringe players, bit players in this whole exercise. What was being put to us was that this was a very substantial program, and it certainly appeared to be so from the documentation that we were provided with. So one of the things I asked for Mr Tse to ensure that we checked out was that the department was right behind what was being proposed at Balga Senior High School, and the recommendation I made to the minister, which she supported, was that our funding be conditional on the education department supporting the establishment of this program, and we subsequently received advice via Mr Hammond from Bob Somerville, who was one of the directors in the Aboriginal affairs branch of the department of education, that that support was guaranteed or assured.⁷⁹

- 2.61 The Committee notes that neither Mr Hammond or Mr Michael Carton could recall who was appointed as the Placement and Community Liaison Coordinator or if one was appointed.⁸⁰ However, the acquittal report of the grant states that Mr Michael Carton was appointed as the Placement and Community Liaison Coordinator for which the funding from the Office of Crime Prevention was provided.⁸¹

⁷⁸ Memorandum from Michael Thorn, Director, Office of Crime Prevention to Hon Michelle Roberts MLA, Minister for Community Safety, 8 September 2004.

⁷⁹ Michael Thorn, Director, Crime and Justice Policy Division, Department of Premier and Cabinet, *Transcript of Evidence*, 10 October 2007, p3.

⁸⁰ Michael Carton, *Transcript of Evidence*, 22 October 2007, p17 and Mervyn Hammond, former Principal, BSHS, *Transcript of Evidence*, 7 November 2007, pp9-10.

⁸¹ Attachment to letter from Michael Thorn, Director, Crime and Justice, Department of Premier and Cabinet, 22 October 2007.

Acquittal report

2.62 On the acquittal process Mr Thorn advised the Committee:

***The CHAIRPERSON:** So, once the approval had been given, what were the processes for the acquittal of those funds?*

***Mr Thorn:** The acquittal requires an evaluation report to be completed - in other words, they did what they said they would do - and a financial statement to be prepared for us to say, once again, that the funding was spent on what they said they would be spending the funding on. We eventually received a satisfactory acquittal report from the P&C.*

...

***The CHAIRPERSON:** Thank you. So, as far as the office was concerned, that acquittal was up to scratch? There was not any question of auditing or checking at all?*

***Mr Thorn:** Not that I recall. I certainly do not believe there were any problems. I do not know what the time lapse was between the completion of this little program, but bearing in mind it was really to be finished early in 2005, I would have expected that the acquittal would have been submitted to us fairly quickly after that, so it would have been in the very early days of the program. Even in the worst circumstances, probably we would not have been able to detect that there were any problems at all.⁸²*

2.63 An acquittal letter was presented by Mr Keith Mynard, President, P & C on 11 August 2005, containing very little detail to justify expenditure of the funding. On 30 November 2005 Mr Mynard presented to the Office of Crime Prevention: an acquittal letter from Mr Carton's company, Hurson Pty Ltd (**Hurson**), outlining the work undertaken by the Placement and Community Liaison Coordinator; and a BWP progress and forward planning report which was seeded by the grant.

Committee comment

2.64 The Committee notes that the acquittal reports were submitted nearly a year after the grant funding period had expired.

2.65 The Committee is of the view that the acquittal process of the Office of Crime Prevention could have been more timely.

⁸² Michael Thorn, Director, Crime and Justice Policy Division, Department of Premier and Cabinet, *Transcript of Evidence*, 10 October 2007, p5.

MITS/BSHS program in late 2004

- 2.66 Throughout this period, Mr Michael Carton was visiting Mr Hammond often, developing the program and providing advice.⁸³
- 2.67 Payments were made to MITS from BSHS for consultancy work:⁸⁴
- On 14 September 2004 the BSHS made a payment to MITS for professional services in the consultancy phases of Balga VET extensions of \$44,000.⁸⁵
 - On 8 October 2004 the BSHS made a payment to MITS for professional services in the consultancy phase of Balga VET extensions of \$56,000.⁸⁶
- 2.68 In September 2004, Mr Hammond gained approval for the conversion of full-time equivalent (**FTE**) teaching hours allocated to the BSHS for 2005 into salary dollars for payment for the delivery of teaching and resources for the BWP at the school. At this time, he was also continuing to lobby various sections of the DET and government for the MITS Program to be delivered at BSHS from the beginning of 2005.⁸⁷
- 2.69 In approximately October 2004 Mr Hammond started a pilot program with Mr Michael Carton, which was based in a prevocational shed in BSHS.⁸⁸ From this time MITS had an office within BSHS and were employing staff to set up the program.⁸⁹
- 2.70 The Committee was advised that approximately eight to ten students were enrolled into the BWP between July and November 2004. The BWP began running during Term 4 of 2004 and ran over the school holidays.⁹⁰
- 2.71 The accommodation component of the program was also established at this time by Mr Michael Carton, which was an extension of the original proposal put forward to the DET.⁹¹

⁸³ Submission No 22 from Thomas Sturt, 16 November 2007, p2.

⁸⁴ Submission No 15 from the DET, August 2007, p45.

⁸⁵ Public Sector Investigation Unit, Western Australia Police, Balga Works Program Timeline, (private evidence).

⁸⁶ Ibid.

⁸⁷ Submission No 15 from the DET, August 2007, p3.

⁸⁸ Peter Burgess, *Investigation Balga Works Program DET*, December 2005, p8.

⁸⁹ Submission No 21 from John McQuay, 14 November 2007, p2.

⁹⁰ Public Sector Investigation Unit Western Australia Police, and Mark Carton, *Transcript of Evidence*, 10 October 2007, p4.

⁹¹ Public Sector Investigation Unit Western Australia Police and Michael Carton, *Transcript of Evidence*, 22 October 2007, p3.

- 2.72 Mr McQuay of MITS submitted to the Committee that in December 2004 Mr Hammond telephoned him and advised that the project would begin in February 2005 and that at least 150 students would start and that MITS would be paid by FTE funds which were paid to the BSHS at the beginning of the year against enrolment.⁹²

The DET position

- 2.73 It was made clear in correspondence from the Director General to Mr Hodge and the key DET staff involved that Mr Garnaut and Mr Collyer had been given the responsibility for making a recommendation on the project and that the project would not proceed until:⁹³
- i) the resourcing requirements were clear and could be met within existing budgets;
 - ii) the operation of the program was clear; and
 - iii) the policy implications of inviting a provider from another State without due regard to local public and private training providers had been addressed.
- 2.74 In October 2004 the Director General was advised by the then Minister for Education and Training's Office that Mr Hodge had advised that the DET had committed \$700,000 to the MITS project, which the Director General saw as a serious breach of procurement guidelines (that is the involvement of a private registered training organisation (RTO) through the grant of a large amount of money without any tender process or approval for exemption). Subsequent to the approval of the conversion of full-time equivalent teaching hours allocated to the BSHS for 2005 into salary dollars for payment for the delivery of teaching and resources for the BWP at the school, the Director General instructed that no funding commitments were to be made to the program without his approval and until the program has been fully costed and considered appropriate.

Gary Hodge has advised the Minister's Office that the Department has committed \$700 000 to the MITS project. You need to be aware that apart from a serious breach of procurement guidelines (the involvement of a private RTO through the grant of a large amount of money without any tender process or approval for exemption), the Minister has requested a detailed costing and evaluation of the program before any commitments are made. This is why Wayne Collier [sic] and John Garnaut have been nominated as the Department's representatives to fully assess and cost the proposed

⁹² Submission No 21 from John McQuay, 14 November 2007, p3.

⁹³ Email from Paul Albert, Director General, DET, to Gary Hodge, Consultant, 22 October 2004.

program before any commitments are made to implement the program.

*I am instructing that no funding commitments be made to the proposal without my approval. Would you please make sure that the school and others involved fully understand that no commitments will be made by the Department until the program has been costed and considered appropriate.*⁹⁴

- 2.75 In response, Mr Somerville contacted the Director General to indicate that in his view there had been no breach of protocol with regard to the program, particularly tender protocols. He advised that MITS was being used by BSHS as a consultancy to provide, free of charge to the school, the costings and advice to establish a program replicating that of the program in Victoria called the Fabrication, Mining and Manufacturing Industries Program.⁹⁵
- 2.76 Mr Somerville further advised the Director General that Mr Hammond was aware that if the school was to use, on a funded basis, the MITS private provider, a tender process would need to be initiated. The \$700,000 was not funding to a private provider but was the total funding the school would receive through increased enrolment (135 students) as well as the funding from Aboriginal Education, Training and Services, of \$250,000.⁹⁶
- 2.77 Funds of \$250,000 had been committed from the DET Aboriginal Vocational and Educational Training Division to BSHS for a Youth Engagement program (Fabrication, Mining and Manufacturing Program) based on the MITS program. This funding was subsequently withdrawn from the BWP following the Director General's directive.⁹⁷
- 2.78 In evidence Mr Somerville advised the Committee that the \$250,000 had been redirected to an aerospace initiative:

The CHAIRPERSON: *The \$250 000 that you referred to, did you advise Merv Hammond that this was available for the program?*

Mr Somerville: *Yes, I did. What I advised Merv was that there was money that I had identified but it had to be cleared by corporate executive at that amount to go directly to a school.*

⁹⁴ Email from Paul Albert, Director General, DET, to Kevin O'Keefe, Executive Director, Aboriginal Education and Training, DET, and Robert Somerville, Director, Aboriginal Education, Training and Services, DET, 21 October 2004.

⁹⁵ Email from Robert Somerville, Director, Aboriginal Education, Training and Services, DET, to Paul Albert, Director General, DET, 22 October 2004.

⁹⁶ Ibid.

The CHAIRPERSON: *Was this amount ever provided?*

Mr Somerville: *No, it was not.*

The CHAIRPERSON: *And what was the sort of sequence that happened there that led to it not being provided?*

Mr Somerville: *The sequence, it went to a district program and that is the Swan Works program they worked up with some funding that was going to go on that. Merv advised me he was looking at other funding sources, and as a consequence of that, that training \$250 000 ended up becoming an Indigenous aerospace initiative. So the funding was used for that the following year.⁹⁸*

- 2.79 Mr Somerville advised the Committee that funding for 2005 to the sum of \$176,000 (GST inclusive) was paid to Swan TAFE in June 2005 to commence the Indigenous Aerospace Initiative in July 2005.⁹⁹

Hon HELEN MORTON: *Was there - the \$250 000 - was that left for a while; and, if so, how long before it was redirected to another program on the basis that eventually this business would be able to be funded properly?*

Mr Somerville: *It was a one-off payment that we were going to put into it, of the \$250 000, which was available for that particular year. As a consequence of that - because we already had the indigenous aerospace concept up and underway, and I just identified an under-expenditure - because I had taken over the training budget - a particular under-expenditure, which was appropriate to be able to put forward as starting off the program in the school, but it was not an ongoing \$250 000, so as a consequence of it not going forward and going into the district process, and then taking about 12 months to get that forward, the money was not available the following year.¹⁰⁰*

- 2.80 The Committee was advised that funding of \$300,000 was paid to the BSHS from DET Aboriginal Vocational and Educational Training Division in October 2004, specifically for the school's Swan Noongar Sports Education Program and the *Follow the Dream* project. This funding contributed to costs incurred by these two projects

⁹⁷ Ibid.

⁹⁸ Robert Somerville, Director, Aboriginal Education and Training, DET, *Transcript of Evidence*, 15 October 2007, p5.

⁹⁹ Letter from Robert Somerville, Director, Aboriginal Education and Training, DET, 19 December 2007.

¹⁰⁰ Robert Somerville, Director, Aboriginal Education and Training, DET, *Transcript of Evidence*, 15 October 2007, p8.

over the 2004 and 2005 calendar years.¹⁰¹ Mr Somerville advised the Committee that there was no element of funding from the Aboriginal Education and Training Directorate to BSHS for the Youth Engagement Program (also known as the MITS program – Manufacturing Industry Services).¹⁰²

- 2.81 A letter was sent to BSHS advising of the transfer of \$300,000, of which \$200,000 was for MITS. Mr Somerville advised the Committee that this letter had been sent in error. A letter of correction was sent to BSHS a week later:

Hon SHEILA MILLS: *Mr Somerville, you committed \$250 000 to Balga Works -*

Mr Somerville: *No, we set aside \$250 000, but the money never went to it.*

Hon SHEILA MILLS: *So why were you transferring \$300 000 to Balga Senior High School, by which \$200 000 was for MITS and the other \$100 000 was for the SINSEP program, over and above the \$200 000?*

Mr Somerville: *That was an incorrect letter that went across to Balga Senior High School. We had actually committed money for SINSEP, for a bus that had been committed to the SINSEP program and the running costs of the bus and for Follow the Dream, which were three programs that were operating out of the school. The letter was sent and when the director general's order came down that we were not to fund the program until it went to the education and training plan, I put that email out to my staff in my finance area, who then informed me that we had sent a letter off the week before. They had just signed it by mistake. My finance people had thought that during the negotiations which I had made them aware of, that the \$300 000 was for that. But it was not; it came from our schools' budget area.*

Hon SHEILA MILLS: *Your email says "I'm meeting with my finance people on Wednesday with a view to transferring \$300,000 over to Balga Senior High School".*

Mr Somerville: *That was \$300 000 for those three programs; not for the MITS program.*

¹⁰¹ Letter from Robert Somerville, Director, Aboriginal Education and Training, DET, 19 December 2007.

¹⁰² Ibid.

Hon SHEILA MILLS: *So the letter to Balga Senior High School went out by mistake before you sent this email, is that right?*

Mr Somerville: *I cannot remember the timing of it, but certainly we rescinded it with a letter about a week afterwards.*¹⁰³

- 2.82 However, the Committee was advised by Mr Hammond that this funding came to the school and that it was used for the BWP:

Hon KEN TRAVERS: *All right. I just want to clarify to make sure that we have it right. The \$250 000 from the Aboriginal - I am not sure what it is called - area of the department that Bob Somerville heads up, that \$250 000 was approved? The school actually received that \$250 000? That was actually paid to the school?*

Mr Hammond: *My registrar told me that was received, yes.*

...

Hon HELEN MORTON: *Can I ask a little about the \$250 000 that you said came through from Bob Somerville's section of the Department of Education and Training? Did you get anything - either an email or something in writing - saying that money was going to come?*

Mr Hammond: *What I do remember, to answer that, is the money came through for Balga Works and then it was stopped and then it came through again for another program, which was called Follow the Dream. The money came through twice. So the money certainly came through, according to my registrar.*

Hon HELEN MORTON: *Okay. So if you say it was stopped - it was going to come through and it was stopped, or it came through and it was stopped?*

Mr Hammond: *It came through twice. It obviously cannot come through twice, so I - it is obviously very fuzzy, but I think it went to the wrong place or something and it came through a second time.*

Hon HELEN MORTON: *And it came through a second time under a different banner, did it, or in a different form?*

¹⁰³ Robert Somerville, Director, Aboriginal Education and Training, DET, *Transcript of Evidence*, 15 October 2007, p11.

Mr Hammond: *I think Bob said it had to come through for Follow the Dream and then it was going to be shifted over within the school to Balga Works.*

Hon HELEN MORTON: *Why do you think -*

Mr Hammond: *Why? I do not know.*

Hon HELEN MORTON: *You do not know why it could not stay as it was in the first place?*

Mr Hammond: *I do not know anything about that at all.*

Hon HELEN MORTON: *What was your understanding, though, of why it could not come in the first place -*

Mr Hammond: *Never heard it.*

Hon HELEN MORTON: *- versus it could come the second time?*

Mr Hammond: *Never heard it.*

Hon HELEN MORTON: *Was the Follow the Dream program, was that dealing with the same kids or a different group of kids?*

Mr Hammond: *It could have been. To answer your question, it could have been the same kids and it could have been different kids - Aboriginal kids - that is what it was for.*

Hon HELEN MORTON: *But was it your understanding that it was going to be spent on people involved in the Balga Works program?*

Mr Hammond: *Yes.*¹⁰⁴

- 2.83 Ms Michelle Green, former Business Manager at BSHS also advised the Committee that the funding had been received by the school and was spent on BWP:

Hon SHEILA MILLS: *Are you aware of a sum of money, \$250 000 or \$300 000 that was given to the school by the Aboriginal Education and Training Unit?*

Ms Green: *Yes, I am. That was—that was very early days. ... Originally, that money came in saying that it was for the Balga Works Program and about a week later, two weeks later, I got another letter*

¹⁰⁴ Mervyn Hammond, former Principal, BSHS, *Transcript of Evidence*, 7 November 2007, p9 and pp10-11.

through saying that money was not to be used for the Balga Works Program, basically, or I was told it was not to be. But, the letter basically stated that money was for Follow the Dream and SNSEP, so —

Hon PETER COLLIER: *Who wrote you that letter?*

Ms Green: *Now, I have got to think of the man's name because I forget them—was it Bob Somerville? I think it is Bob—Bob Somerville.*

Hon SHEILA MILLS: *Was that money—at the end of the day, did that money actually go to the Follow the Dream program or was it actually purloined and put into Balga Works?*

Ms Green: *Some of it was used for Balga Works, some of it went back to Follow the Dream, but I do not believe that it ever all went back to Follow the Dream. ...*

Hon HELEN MORTON: *I am interested in the comment “went back to”. Does that mean that in the initial stage the money went to Balga Works?*

Ms Green: *Yes it did, and what I would do was if I got some funding in for Balga Works, I would try to get it put back to SNSEP and Follow the Dream, where it really belonged. I only managed to do that in the early days with an FTE payment. In the very early days, I managed to get some money back through and say, “No, these moneys have got to go through here; I’m not releasing it,” to try to get the books back, but it was not long before everything would be paid out again anyway. I was just instructed to pay the last of the bank balance to Michael Carton; he needed that money to run it.*

Hon HELEN MORTON: *Was it \$250 000 or \$300 000, by the way, that the original and second letters referred to?*

Ms Green: *I think \$300 000 was the figure.*¹⁰⁵

Committee observation

- 2.84 It appears that upon receipt of funding from the Office of Crime Prevention in September 2004, Mr Hammond and Mr Michael Carton began working to set-up the MITS program at BSHS.

¹⁰⁵

Michelle Green, Business Manager, BSHS, *Transcript of Evidence*, 17 March 2008, pp16-17.

2.85 The Committee notes that:

- a) Mr Somerville advised the Director General that MITS was being used by BSHS as a consultancy. He also advised that the consultancy was being provided free of charge to the school, however this was not the case (see paragraph 2.67);
- b) Mr Albert, the then Director General, DET, made his position on the involvement of MITS in the project clear;
- c) BWP commenced in 2004 despite the directive of the Director General that it be considered within the Swan Works Program and that it not proceed until a number of issues had been addressed;
- d) the issues that the Director General required clarification on were:
 - the resourcing requirements were clear and could be met within existing budgets;
 - the operation of the program was clear; and
 - the policy implications of inviting a private provider from another State without due regard to local public and private training providers had been addressed.
- e) Mr Hammond's actions were in direct conflict with the Director General's instructions.

2.86 The Committee is unable to ascertain the extent of the knowledge of other officers within the DET of the activity of Mr Hammond and Mr Michael Carton in setting up the BWP in late 2004. The extent of their authorisation of the establishment of BWP at that time is also unclear. Funding was approved through the conversion of FTE funding for the BWP in September 2004, however, the Director General had instructed that no funding be committed to the program.

2.87 The Committee notes that there is discrepancy in the evidence about the funding provided by the Aboriginal Education and Training Directorate to the BSHS. The Committee notes that whilst the funding was not provided to BSHS for the BWP, the funding may have been used for this purpose. The Committee further notes that the Business Manager felt that there was something irregular about the letters received regarding this payment.

Recommendation 2: The Committee recommends that the Department of Education and Training investigate whether the funding provided by the Aboriginal Education and Training Directorate to the Balga Senior High School was used for the purpose it was intended and if not, was the redirection of the funding appropriate. Further, what was the knowledge and complicity of any officer of the Department of Education and Training in relation to this funding.

Recommendation 3: The Committee recommends that the Department of Education and Training investigate how it was possible for Mr Hammond in September 2004 to arrange an FTE conversion to fund the Balga Works Program at the Balga Senior High School without the support of the Minister for Education and Training and with the Director General's reservations about the program.

THE BALGA WORKS PROGRAM FORMALLY ESTABLISHED

2.88 The BWP officially began in Term 1, 2005, as a school-based program at the instigation of Mr Hammond.

2.89 On 31 January 2005 Mr Hammond advised his line manager Mr Garnaut that:¹⁰⁶

- he was commencing with the BWP as a school based program;
- that the BSHS was proceeding to enrol students into the BWP;
- the BWP would be run through existing school resources as a school based program;
- he was contracting Mr Michael Carton of MITS to contribute some work related components of the BWP.

2.90 Mr Hammond also advised Mr Garnaut that at that stage there were no resource implications for the system or beyond the capacity of the school. Further, that he looked forward to the expansion of BWP into the wider Swan Works when the system was ready to provide appropriate levels of support and the system was satisfied with the necessary management arrangements.¹⁰⁷

2.91 Confirmation that BSHS could run a program for at risk 16 and 17 year olds was given by Mr Garnaut when he met with Mr Hammond and others at BSHS on 4 December 2004. Mr Garnaut stated that principals were free to implement school

¹⁰⁶ Submission No 15 from the DET, August 2007, p4. See also email from Mervyn Hammond, Principal, BSHS, to John Garnaut, District Director, Swan Education District, DET, 31 January 2005 provided in attachment to letter from Keith Newton, A/Deputy Director General, Schools, DET, 24 July 2007, p6.

¹⁰⁷ Ibid.

based programs as long as they complied with DET policy and were conducted within the school resource provisions.¹⁰⁸ On school programs generally Mr Garnaut advised the Committee as follows:

*Mr Garnaut: Many schools run special type programs - or programs that might not be special but that are different - to cater to the needs of individual children in the school. There would be hundreds of these types of programs statewide. It is a principal's prerogative to establish a program within the school's resources and within the department's policies, to meet the idiosyncratic needs of a certain group of students. From that perspective, principals are free to establish relevant programs. That is part of our inclusion policy, and it ensures that we help meet the needs of the diverse groups of students we have around the state.*¹⁰⁹

- 2.92 The Committee notes that it was within DET policy that BSHS could commence the BWP as a school-based program on the basis that it would be run within existing school resources.
- 2.93 Mr Garnaut advised the Committee that he made sure that Mr Hammond was aware of the parameters in which the program could operate, and that he was aware of the contract management policy.¹¹⁰
- 2.94 In relation to MITS involvement in the BWP, Mr Hammond advised Mr Garnaut that he was not contracting with MITS but that Mr Michael Carton was working within the BWP.¹¹¹ Mr Garnaut advised Mr Hammond that there were to be no contractual arrangements unless he had firstly consulted with him and the manager of Contracting Services. Mr Hammond was instructed to seek advice from the contracting manager about contractual procurement requirements.¹¹²
- 2.95 On 14 February 2005 Mr Hammond met with Mr Di Pietro, Principal Contract Manager, Department of Treasury and Finance, to discuss contracts and tender issues pertaining to BWP and was fully informed of his obligations and the processes, policies and requirements relating to this issue. Mr Michael Carton was present at this meeting.¹¹³

¹⁰⁸ Tabled paper from the Public Sector Investigation Unit Western Australia Police (private evidence).

¹⁰⁹ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p15.

¹¹⁰ Ibid, p34.

¹¹¹ Submission No 15 from the DET, August 2007, p4.

¹¹² Ibid.

¹¹³ Tabled paper from the Public Sector Investigation Unit, Western Australia Police (private evidence).

- 2.96 In relation to the accommodation component, in February 2005 Mr Michael Carton indicated to Mr Garnaut that he was arranging accommodation for some at-risk students at Joondalup as part of a distinct and separate funding arrangement to that of the school program. Mr Garnaut advised Mr Hammond at this time that the school should not contribute to the funding of any outside school care.¹¹⁴
- 2.97 The distinction between the Swan Works Program and the BWP was clearly articulated. On 10 February 2005, at a Swan Works Steering Committee meeting, Mr Hammond provided an outline of the BWP.¹¹⁵ The difference between the two programs was discussed. It was noted that the BWP would be limited in its holistic wrap around service and not be able to provide the extensive long-term mentor support.¹¹⁶ The minutes of the meeting record the following:

An initial 'Balga Works' school program was endorsed by John Garnaut for Balga SHS, assuming the program complied with DET guidelines, and it was implemented within school resources. An overview of Balga Works was provided by Merv Hammond and Mark Carton (see attachment).¹¹⁷

- 2.98 Mr Garnaut advised the Committee that he was of the understanding that the “BWP was a low-key program, lowly resourced, and would inform the development and implementation of the broader, more heavily resourced Swan Works program - it was a small, low-key program, for which the planning - comprehensive planning - was in place”.¹¹⁸

DET funding and support for the BWP

- 2.99 The funding for the BWP education component was to come from the DET via the conversion of part of the BSHS FTE establishment, that is, the BSHS was converting FTE funding for use in the BWP (see paragraph 2.68). The DET advised the Committee that schools can convert FTE funding to a flexible resource that can be accessed through the School Salary Pool. This flexibility is intended to provide schools with the capacity to purchase services to meet specific student educational needs that cannot be provided through their school based staff or through the regular staffing process.¹¹⁹

¹¹⁴ Submission No 15 from the DET, August 2007, p6 and Public Sector Investigation Unit, Western Australia Police, Balga Works Program Timeline (private evidence).

¹¹⁵ Letter from Keith Newton, A/Deputy Director General, Schools, DET, Attachment a, 23 August 2007.

¹¹⁶ Swan Works Steering Committee, Minutes of Meeting, 10 February 2005.

¹¹⁷ Ibid.

¹¹⁸ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p30.

¹¹⁹ Eighth Submission from the DET, November 2007, p2.

- 2.100 Mr Hammond advised the Committee that he believed he had the support of the DET to run the program and that this was evidenced by the funding of the program through the conversion of FTE funding by the DET.

***Hon PETER COLLIER:** So just to clarify one thing, Mr Hammond, and to pick up on something Helen said: so from the program that, Mr Hammond, you took or the group of you - Mr Hodge, Mr Somerville and yourself - took to the education minister in August '04, which did not get ministerial approval, was not the program that was established at the end of 2004, but you did feel that you had departmental support for the program that you instituted.*

***Mr Hammond:** Well, they were paying for the salaries of the teachers to look after these kids, so, you know, they do not pay if they do not support it.¹²⁰*

Committee comment

- 2.101 The Committee notes:

- a) the verbal instruction of Mr Garnaut to Mr Hammond not to contribute to the funding of any outside of school care;
- b) that the Director General gave clear instruction on the requirements to be met before the BWP could proceed and that it was to be incorporated into the Swan Works Program. The Committee could not identify any formal permission being granted to the BSHS to implement a trial of the BWP at the BSHS in Semester 1 2005, nor can it find evidence that would have stopped the trial going ahead;
- c) that it was Mr Hammond's understanding throughout the development of the Swan Works position paper that a trial of the program would be implemented at BSHS in 2005. Mr Hammond and Mr Michael Carton proceeded to set-up the BWP at BSHS in the later half of 2004 without DET full knowledge or formal authorisation; and
- d) that Mr Hammond was aware that he could run the program as a school-based program without any ministerial or departmental approval, including that the program could be funded through enrolments and other sources. Further, that Mr Hammond was aware of the parameters in which the BWP could operate, including tender requirements and department contractual procedures.

¹²⁰

Mervyn Hammond, Former Principal, BSHS, *Transcript of Evidence*, 7 November 2007, p3 and p7.

- 2.102 The Committee is of the view that Mr Hammond misled the DET about MITS involvement in the BWP and that he did not advise the DET that he had set up the BWP in late 2004.
- 2.103 Although the Committee acknowledges that Mr Hammond had considerable discretion regarding the implementation of a school based program (see paragraphs 3.27 to 3.28), the Committee believes that Mr Hammond's actions in proceeding with BWP as a school based program in 2004 effectively meant that he deliberately circumvented the instructions of the Director General of the DET.
- 2.104 The Committee notes that the DET was aware that the BWP was being implemented as a school based program in Semester 1, 2005. The Committee notes that Mr Garnaut endorsed the implementation, within school resources, of the BWP as a school based program at BSHS.
- 2.105 The Committee is of the view that while Mr Hammond knew that he could run a trial within existing resources (using FTE salary conversion payments) he would have been aware that in order to implement the BWP, as initially proposed, considerable additional funding would be required. The Committee notes that Mr Hammond advised Mr Garnaut that he understood that the BWP would be absorbed into the more heavily resourced Swan Works Program which was due to commence in Semester 2, 2005 (see paragraph 2.90).
- 2.106 The Committee feels that it has not obtained the full picture of the events surrounding the establishment of the BWP, due to a lack of full and frank disclosure and a lack of written evidence.
- 2.107 Further, the Committee felt from the commencement of its inquiry that the DET did not fully convey its knowledge and understanding of the detail surrounding the establishment and operations of the BWP. The Committee felt it was only provided the minimum information until it requested further detail. The Committee's expectation is that a Government agency will be forthcoming with comprehensive information to a Parliamentary Committee and the DET was not.
- 2.108 The Committee feels that the DET either consciously or unconsciously withheld information. For example, the initial submission provided to the Committee by the DET was seven pages long and contained no supporting documentation; however, over the course of its inquiry as a result of the Committee's requests it received an additional seven submissions and well over 1000 pages of relevant documents from the DET. In the Committee's view, in providing evidence, some DET officers appeared defensive and sought to provide as little assistance as possible. In its inquiry the Committee felt that senior DET officers were either still not aware of the full circumstances surrounding the BWP or they were not being completely open or transparent.

CHAPTER 3

THE DEPARTMENT OF EDUCATION AND TRAINING AND THE BALGA WORKS PROGRAM

SCARCITY OF FINANCIAL DATA ON THE BWP HELD BY THE DET

- 3.1 The Committee was severely restricted in its attempts to determine the level of expenditure involved in the BWP by the lack of financial information available. The Committee notes that Hurson had responsibility for the financial management and records of the BWP.

THE BALGA WORKS PROGRAM IN 2005

- 3.2 The BWP started as a trial, however, as it continued to run throughout 2005 it expanded rapidly. By the end of July 2005, 107 students were enrolled in the BWP,¹²¹ compared to 53 students in Term 1, 2005.
- 3.3 There was inter-agency involvement and the BWP was receiving funds from various sources. Mr Hammond advised Mr Garnaut during Semester 1, 2005 that the activities outside of the school hours were supported by other agencies such as Police, Justice Department, Community Development and others, and that Mr Michael Carton was performing a management role for the BSHS and was reporting to him.¹²²
- 3.4 By the commencement of Semester 2, 2005 further resources were required for the BWP. BSHS requested a further salaries FTE conversion for the payment of various activities associated with the BWP.¹²³
- 3.5 The positive feedback that Mr Garnaut was receiving on the BWP and the achievements of the program at this time was primarily from the administrators of the school. Mr Garnaut also stated that the feedback he was receiving from other agencies involved indicated that the program was exciting and was achieving results for their particular clients. As stated by Mr Garnaut:

***Mr Garnaut:** The feedback that I was getting on the program was, of course, from the staff at the school, from the administration at the school.*

¹²¹ Briefing Note Request - Ministerial No 2589, Subject: Balga Works, 29 July 2005.

¹²² Submission No 15 from the DET, August 2007, p6.

¹²³ Ibid, pp6-7.

Hon PETER COLLIER: *Do you mean staff of the school or the program?*

Mr Garnaut: *I really mean the administrators of the school, who were informing me of the program, and the achievements of the program. At that time, I was chairing the human services interagency group for the west metropolitan area, which was focused in the Balga-Mirrabooka-Nollamara-Girrawheen area, and the feedback from other agencies around that table - which were people equivalent to me representing their agencies in a regional context - was that this program was exciting and was achieving results for their particular clients. I am talking about DCD, police, juvenile justice.*¹²⁴

- 3.6 Throughout this time the BWP was still considered as a precursor to the Swan Works program by the DET¹²⁵ and part of the Swan District Education and Training Plan.¹²⁶ During the period between February and June 2005 the Swan Works Steering Committee was progressing with its considerations. The Swan Works Steering Committee presented a report to the then Executive Director in June 2005 but the report was not acted upon.¹²⁷

Memorandum of Understanding - MITS engaged as private service provider

- 3.7 On 14 February 2005, Mr Hammond, and Mr Michael Carton representing MITS signed a memorandum of understanding (MOU) for the provision of services by MITS to the BWP. The MOU outlined the responsibilities of both parties involved and was for an initial period of three consecutive school years. It also contained an appendix indicating that the contract price would be \$1,064,062.50 for the year 2005 which calculated to a potential amount of over \$3 million for the three year period.¹²⁸
- 3.8 On that same day at approximately 10.00am, Mr Di Pietro, Principal Contract Manager, had met with Mr Hammond and Mr Michael Carton to give advice about relevant procurement processes and contracting policies with respect to the BWP. The

¹²⁴ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p17.

¹²⁵ 'Briefing Notes for the Minister for Education and Training for her visit to Balga SHS with Margaret Quirk MLA and Principals within Quirk's Electorate on Friday, 19 August 2005'.

¹²⁶ 'Advice/Briefing Notes for the Minister for Education and Training Regarding Balga Works', from John Garnaut, District Director, DET, and Mervyn Hammond, Principal, BSHS, September 2005.

¹²⁷ Submission No 15 from the DET, August 2007, p7.

¹²⁸ Memorandum of Understanding between Balga Senior High School and Manufacturing Industry Training Services Pty Ltd, 14 February 2005.

MOU was not raised by Mr Hammond or Mr Michael Carton at the meeting.¹²⁹ Mr Hammond then signed the MOU without DET knowledge or authorisation.¹³⁰

Committee comment

- 3.9 The Committee notes the procurement policies and procedures set out in the DET's *Financial Management in Schools - Policies and Procedures*¹³¹ and the Department of Treasury and Finance *Procurement Practice Guide for Public Authorities*¹³² documents. In particular, the Committee notes the requirement that an open tender process is required for purchases above \$150,000.

Expenditure to MITS by BSHS

- 3.10 Subsequently, significant expenditure was made to MITS by BSHS on invoices for services related to the BWP in early 2005:

- On 14 February 2005, following the signing of the MOU, six payments of \$9,900 totalling \$59,400 was paid to MITS from the BSHS for professional services in the consultancy phase of the program.¹³³
- In March 2005 a number of invoices for payment were submitted by MITS for the BWP, including:¹³⁴
 - i) 4 March 2005, MITS invoice for \$1,064,062.50 for 150 enrolled students on 28 February 2005; and
 - ii) 15 March 2005, MITS invoice for \$69,930 for 'training services provided 2005'.

- 3.11 The six invoices from MITS dated 14 February 2005 each for \$9,9900 were noted by Mr Peter Burgess during his investigation into the BWP for DET in 2005. When asked if he knew why the six payments were made in six batches rather than one Mr Hammond replied '*No you would have to ask the Registrar*'.¹³⁵

¹²⁹ Submission No 15 from the DET, August 2007, p5.

¹³⁰ Submission No 15 from the DET, August 2007, p1 and Letter from Keith Newton, A/Deputy Director General, Schools, DET, 24 July 2007, p13.

¹³¹ DET, *Financial Management in Schools - Policies and Procedures: Effective: 1 July 2005* [sic].

¹³² Department of Treasury and Finance, *Procurement Practice Guide for Public Authorities*, January 2008.

¹³³ Submission No 15 from the DET, August 2007, p5. See also Peter Burgess, *Investigation Balga Works Program DET*, December 2005, p2.

¹³⁴ Submission No 15 from the DET, August 2007, pp5-6.

¹³⁵ Peter Burgess, *Investigation Balga Works Program DET*, December 2005, p31.

- 3.12 In relation to the six payments of \$9,900 to MITS, the Business Manager of BSHS advised the Committee that these payments were made on the instruction of Mr Hammond, after she had advised him that payments over \$10,000 were required to go through the procurement process:

Merv was the one that was making all of the decisions. District office was the first port of call before central office but, initially, I would have to say central office knew nothing of the program because in the very, very early days there were payments made to MITS, about five or six of about \$9 900. Merv had asked me to pay money to MITS and I said, "Merv, we can't do this. You've got to go through procurement", and at that point I did not know the figure—and the figure was probably nearer to \$20 000—but I said—"Is this, well"—I said to him, "We can't pay anything over \$10 000 without you running this through procurement to have this all okayed; we just cannot do it." "So, well, what's the figure?" "Well, I'm sure it would be about \$10 000." "So, fine." He comes to me with—six—five or six invoices for \$9 900, "Pay those", so there was not—central office in the early days knew nothing about it.¹³⁶

Committee comment

- 3.13 The Committee makes no comment on the evidence of the Business Manager. Although it notes that there is reason for some concern regarding this evidence, the Committee understands that this matter is being investigated by other bodies.
- 3.14 The Committee notes that there were 53 students in the BWP in Term 1, 2005 and that MITS submitted an invoice that claimed there were 150 enrolled students on 28 February 2005 (see paragraphs 3.2 and 3.10).

Change in private service provider

- 3.15 In April 2005 Mr Michael Carton advised Mr Hammond that MITS were not going to provide the service anymore. MITS went into liquidation and Mr Michael Carton took over the BWP through his company Hurson. Mr Hammond stated that:

It was just the same person we used inside MITS. He just kept going under the new name Hurson.¹³⁷

- 3.16 Mr Michael Carton advised the Committee that Hurson involvement was initiated by Mr Hammond:

¹³⁶ Michelle Green, Business Manager, BSHS, *Transcript of Evidence*, 17 March 2008, p14.

¹³⁷ Peter Burgess, *Investigation Balga Works Program DET*, December 2005, pp17-18.

Mr Carton: *Mr Hammond had indicated, with MITS' demise, that he wanted the program to continue. He asked myself and he spoke to my wife as to whether she would continue with Hurson. We initially indicated we would not, and as a result of that, I think in late March or early April, we then agreed for an interim until the tender was let.*

...

Hon KEN TRAVERS: *No, I have got to be honest and say I am still not clear but -*

Mr Carton: *Let me labour the point, then. When the demise of MITS was imminent and we had advised Mr Hammond of that, he had requested that I do it. Of course, I said I could not because of my bankruptcy. He indicated to me he knew we had a family company that was involved in MITS: could that company do it? I spoke to my wife about it. She then went to Perth or Mr Hammond spoke to her about it. I am sure she went over to Perth for it. As a result of that, it was agreed that Hurson would take on the school and the residential until tender was let.*¹³⁸

- 3.17 Mr Hammond did not sign a contract for service with Hurson or engage in any procurement process prior to their involvement.

Involvement of a private provider and misleading of the DET

- 3.18 The DET have advised the Committee that they had no knowledge at the time that Mr Hammond had engaged MITS to run the BWP and that considerable payments were being made by the BSHS to MITS for service delivery.

The CHAIRPERSON: *My next question is: why did the department, in your view, allow Mr Hammond to engage MITS when a directive had been given in October 2004 from the Director General of Education not to do so?*

Mr Garnaut: *There was no awareness that MITS were being engaged as a private provider from the beginning of 2005, so that is something that Merv Hammond chose to do on his own volition and he did it independently.*¹³⁹

¹³⁸ Michael Carton, *Transcript of Evidence*, 22 October 2007, p15.

¹³⁹ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p3.

3.19 The DET advised the Committee that neither Mr Garnaut or other relevant personnel in the DET had any knowledge of the existence of the MOU prior to 28 October 2005, when the Minister for Education and Training received a letter from the liquidator, claiming an outstanding debt against the DET, pursuant to the MOU.¹⁴⁰ The liquidator claimed a breach of contract by BSHS and that BSHS is indebted to MITS for the sum of \$1,135,704.90, with further claims possible.¹⁴¹

3.20 The DET submitted that:

*During 2004 and 2005, in seeking to run the MITS Program and in proceeding with the School Program in the manner that he did, the Principal acted outside the scope of his authority, and relevant policies of the Department of Education and Training ('Department') and government. It appears that the Principal misled his line managers about the School Program and Carton's involvement in the Program.*¹⁴²

3.21 The Committee asked Mr Garnaut how he believes Mr Hammond misled the DET about the program and Mr Michael Carton's involvement in 2005:

Mr Garnaut: I think there was an element of misleading the department at the time. The misleading may have commenced in 2004 when Michael Carton was obvious [sic] in the school doing some work, and I did ask the question of Merv Hammond: what role is Michael playing in the school? He said he was providing consultancy advice for free, voluntary, because he was an ex-student of the school. He was a person who had come from a background where he understood the needs of high-risk children, street kids, and he was volunteering his services to help. I found out later, subsequent to an audit about 12 months later, that there had actually been money being transferred for those services later on. So, that was one indicator of some misleading.

In terms of the extent of involvement of Michael Carton in the program in 2005, I asked Merv Hammond to present a paper to the Swan Works steering committee on 10 February to outline the clear differences between the Swan Works program and the Balga Works program. He did this. In that particular document there was clear reference to the budget for the program and there was no indication

¹⁴⁰ Submission No 15 from the DET, August 2007, p7.

¹⁴¹ 'Briefing Notes for the Minister for Education and Training regarding the Balga Senior High School/Manufacturing Industry Training Services Pty Ltd Vocational Education and Training Partnership', from John Garnaut, District Director, Swan Education District, DET, 11 November 2005.

¹⁴² Submission No 15 from the DET, August 2007, p1.

*there of the heavy finances being funding for private providers, such as Michael Carton.*¹⁴³

- 3.22 When the Committee asked Mr Hammond whether in seeking to run the BWP in the manner that he did, that he acted outside the scope of his authority and relevant policies of the DET and the government, Mr Hammond responded as follows:

Mr Hammond: *So under devolution - under the principles of devolution - I guess you people know all about the “four squiggle books”, which are the devolution Bibles, which came down in the early 1990s. High school principals - all school principals - are encouraged to look for new ways to do things. Under the principle of devolution, I believe I had that authority.*¹⁴⁴

- 3.23 Mr Hammond refutes that he misled his line managers about the program and Mr Michael Carton’s involvement in the program:

Mr Hammond: *I had constant contact with my line manager; Gary Taylor had constant contact with myself; Gary Taylor [Deputy Principal¹⁴⁵] had constant contact with the district office. I do not think there was anything misleading in any of that.*¹⁴⁶

Committee comment

- 3.24 The Committee notes that:

- a) the BWP officially commenced in February 2005 as a trial program and that it was expected that a tender process would follow or that the program would become part of the Swan Works Program.
- b) the MOU was signed by Mr Hammond without the knowledge or authorisation of the DET and in apparent breach of Government contracting and procurement policies. Further, that the DET believes that Mr Hammond misled them about the involvement of the private provider.
- c) in order to avoid having to meet the DET procurement procedures for expenditure above \$10,000 Mr Hammond instructed that six payments of \$9,900 each be made to MITS in February 2005.

¹⁴³ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p1.

¹⁴⁴ Mervyn Hammond, Former Principal, BSHS, *Transcript of Evidence*, 7 November 2007, p29.

¹⁴⁵ Gary Taylor was appointed as a supplementary Deputy Principal at BSHS from Semester 2, 2005 (see paragraphs 3.36 onwards).

¹⁴⁶ Ibid.

- d) Hurson took over from MITS as the service provider in April 2005, again, in apparent breach of Government contracting and procurement policies, and that no written contract for service provision was entered into between Hurson and BSHS.
- e) During 2005 the BWP was expanding rapidly and was requiring additional resources to sustain the program.
- f) Mr Hammond does not believe that he misled the DET about the program and that he believed that under the principle of devolution he had the authority to run the program as he did.
- g) The principle of devolution does not extend to authorising school principals to ignore Government contracting and procurement policies (see paragraph 3.27 to 3.28).

DET monitoring of the BSHS

- 3.25 The Committee queried the monitoring of the BSHS and how it was possible that the DET was not aware that Mr Hammond had engaged a private provider.
- 3.26 The Committee was advised that initial DET involvement and monitoring of the BWP was within the context of its standard review of the BSHS. As a school based program it was the principal's responsibility to ensure the soundness of the program and all programs operating within the school.¹⁴⁷

Devolution of authority to the principal

- 3.27 The DET have a policy of devolution of authority to the principal of a school. It is under this authority that school programs can be implemented autonomously by a principal.
- 3.28 The principal of devolution was explained to the Committee by Mr Keith Newton, A/Deputy Director General, Schools, DET:

The CHAIRPERSON: *So could you elaborate on what decision-making authority is devolved to the principal of a high school?*

Mr Newton: *There is significant decision making devolved to any principal of any school. They are charged with making sure the educational programs in the school match the needs of the students and in upper secondary, of course, are consistent with the Curriculum Council requirements; and in other parts from K-12 in line with the*

¹⁴⁷ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p16.

curriculum framework. They have financial responsibilities devolved to them and they have community decision-making abilities devolved to them as well. Although not autonomous, they do have considerable decisions on a day-by-day basis with the operation of their school to meet certain outcomes.

The CHAIRPERSON: *And obviously duty of care and those sorts of things.*

Mr Newton: *Yes.*

The CHAIRPERSON: *If the principal goes beyond his or her powers or acts inappropriately, what action does the department take to address this?*

Mr Newton: *If they step outside their bounds in some form of criminal authority [sic], then of course it is referred to the police. If it is in terms of management, gone outside the policies and compliance models of the department, then the district director has the authority to, in the first instance, put the person under some sort of performance appraisal to make sure that their work is in fact compliant with the department's requirements. Where the person does not comply, then they can take that action further, which ultimately would lead to some form of disciplinary action, and that would then be a matter of a judgement by the director general of the day.¹⁴⁸*

3.29 The DET have advised of the following checks and balances in place to oversee the running of school programs:¹⁴⁹

- schools are audited by the DET internal assurance directorate periodically and reports to schools on their financial management. The audits are followed up by the district director and ensures that any recommendations are put in place;
- a school review process is undertaken whereby the district director reviews the quality of schooling based on a school review framework which reviews schools' operations across eight key areas of operation including standards of student performance, school planning, school annual reporting, the safe and inclusive nature of the learning environment, the leadership across the school, the HR management processes in the school, the interaction with the community and the contribution that makes to the quality of schooling, the

¹⁴⁸ Keith Newton, A/Deputy Director General, Schools, DET, *Transcript of Evidence*, 19 October 2007, p23.

¹⁴⁹ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, pp15-16.

implementation of department strategic initiatives, and the quality of teaching and learning in the school; and

- a quality assurance framework which requires schools to self-assess their own performance against the framework including quality of schooling. The district director works with schools on their self-assessments.

3.30 The Committee was advised that the school review process is a continuous process that occurs usually over a two year period.¹⁵⁰

3.31 The Committee was further advised that the frequency of school audits is not based on time, but is instead based on identified risks:

*Mr Newton: Schools are audited on a cycle of risk. It is not a three-year cycle or four-year cycle; it is an identified set of risks. Some schools are audited more frequently than others and Balga Senior High School is one of those schools that, clearly, we will audit more frequently until we are confident that it is performing well. The audit and risk directorate produces a schedule of those schools that need to be audited because for some time, or there is some evidence that suggests, things are not going as well as they should be. Each school has to complete a self-assessment audit every year and submit that, which the audit and risk directorate then reviews and says out of that these are the ones that need to be reviewed. The school executive then has the ability to say that on top of that we still think we should audit this or that school for whatever reason, usually because the district director has alerted us to something that might not be showing up in the self-assessments.*¹⁵¹

3.32 The DET process for auditing schools is as follows:¹⁵²

- a) Under the DET School Audit Program all government schools are audited each year by Departmental Auditors or are required to complete and submit a School Audit Control Self Assessment Survey (CSA) to the Audit Branch. To date approximately 20 percent of schools have been audited each year by Departmental Auditors and the remainder submit a CSA. Staff resources in Audit Branch have recently been increased and it is expected that approximately 25 percent of schools will be audited annually by Departmental Auditors from 2008 on.

¹⁵⁰ Keith Newton, A/Deputy Director General, Schools, DET, *Transcript of Evidence*, 19 October 2007, p23.

¹⁵¹ Ibid, p25.

¹⁵² Supplementary information provided by Keith Newton, A/Deputy Director General, Schools, DET, undated, p2.

- b) Schools are selected for audit each year based on risk, however the risk methodology has been designed so that all schools will be audited more frequently, that is, annual or biannually. Key risk variables used include materiality, revenue value, complexity, staff changes, results from previous audits, and length of time from previous audit. The weightings placed on risk variables will usually result in secondary schools being classified as medium to high risk and generally lead to more regular audits of those schools, that is at least once every two years.
- 3.33 Specific programs within a school are assessed at the discretion of the director general. Mr Garnaut advised the Committee that the DET does not have the time or the resource to quality assure and control every program that is run in every school. It is the responsibility of principals to do that.¹⁵³ As stated by Mr McCaffrey, Deputy Director General, Finance and Administration, DET:

*Mr McCaffrey: The responsibility for all schools when they run programs or they engage outside contracts for whatever purpose is the responsibility of the principal. The principal has the authority and responsibility to manage their school for the kids they have and run the programs and the courses that they deem fit. In my mind, I have no doubt it is clearly the responsibility of the principal.*¹⁵⁴

Issues identified with the BSHS and Mr Hammond

- 3.34 In 2005 the focus of Mr Garnaut as the District Director was not exclusively the BWP but the whole of the BSHS. The school had a whole range of issues that were identified by Mr Garnaut in 2004 that were being addressed. It had been identified that BSHS lacked the appropriate structure to suit its program-based focus as a school for kids at risk - the traditional school leadership structure did not suit BSHS. As stated by Mr Garnaut:

Well, because it is a very different structure as an organisation, the traditional school leadership structure does not fit a school like Balga Senior High School, yet they were trying to get an old, traditional structure to fit with this programmic-type school. I am not aware of any other school in Western Australia that has a programmic structure like Balga Senior High School has. What we had was curriculum leaders in the eight learning areas, and student service coordinators, all theoretically impacting and influencing across the whole school in providing leadership. In my school review work, I

¹⁵³ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, pp15-16.

¹⁵⁴ Peter McCaffrey, Deputy Director General, Finance and Administration, DET, *Transcript of Evidence*, 15 October 2007, p2.

*discovered that this simply was not happening. The leadership and management structure was not as effective as it should be, and there needed to be a major review of that structure? [sic]*¹⁵⁵

3.35 Mr Garnaut felt that Mr Hammond did not have the capacity or experience to lead a change in planning and organisational structure, and thus additional resources were sought to establish a new position, with the key responsibility to set in place improved processes for whole-of-school planning, and for program planning for each of the programs, which included getting clear about the outcomes, the data to be collected on student performance, and the financial budgets and management issues to do with each program.¹⁵⁶

3.36 Additional quality assurance processes were put in place in 2005 to support the BSHS at that point in time, including:¹⁵⁷

- a supplementary deputy principal, Mr Gary Taylor was put into the school in Semester 2, 2005 to support the management across the school and accountability processes;
- additional financial management support to the Principal and Registrars from the Finance and Administration Officer of the Swan District Education Office; and
- performance management by Mr Garnaut of Mr Hammond on management and school leadership issues.

3.37 During a hearing on 10 October 2007, Mr Garnaut advised the Committee that the appointment for the position of supplementary deputy principal was undertaken by “a panel involving Merv Hammond and other senior staff. I think a principal from a neighbouring school was involved. It was a merit selection process, which Merv Hammond chaired and led, and it was appropriate for him to do”. In a letter to the Committee received on 21 May 2008 Mr Garnaut said he was a panel member. Mr Garnaut did not state this at the hearing.¹⁵⁸

3.38 The Committee was also advised that Mr Taylor and Mr Hammond knew each other prior to Mr Taylor commencing at BSHS. Mr Taylor advised the Committee that:

Mr Taylor: *Merv Hammond was a principal of mine at Mukinbudin District High School back in the 80s. We had maintained a*

¹⁵⁵ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p19.

¹⁵⁶ Ibid, p19.

¹⁵⁷ Ibid, p16.

¹⁵⁸ Ibid, p18.

*professional, if not a somewhat friendship-type relationship, with Merv, Lee and her family.*¹⁵⁹

- 3.39 Mr Taylor, Deputy Principal advised the Committee on his role at the BSHS and the issues that school was experiencing:

... The brief essentially was to look at system operations management and so on of the Balga Senior High School programs, and to assist the district director, John Garnaut, and the principal, Merv Hammond, in reshaping the current programs within the school to a point where they were sustainable.

The CHAIRPERSON: *What problems were being experienced at Balga Senior High School when you began your employment there?*

Mr Taylor: *They probably mostly surrounded the visionary programs that were implemented by Merv Hammond, the principal - probably with a lack of good support and management structures behind them. There were issues with behaviour management. There were issues with financial management. There were issues with performance management. There were issues with reporting. The school essentially needed some support in order to bolster those departmental requirements, so that it could be properly planned and managed and properly run. Essentially, it was probably a case of running before they could walk. Programs were built from ideas down rather than from good practice up.*¹⁶⁰

- 3.40 Mr Taylor advised the Committee that:

*... there had not been a school plan developed for some years, there had not been an annual report produced for some years, there was no performance management across the school and there were no program plans. In fact, there was no real plan as to how the direction of the programs might proceed, so it was my task to come in and develop all of that, along with looking at the very future and direction of the programs and try to work out how best to mould them and shape them so that they might actually continue to work for the kids.*¹⁶¹

- 3.41 In October 2005 an audit was conducted by the Finance and Administration Officer of the Swan District Education Office, just prior to the issue of the MOU emerging. This

¹⁵⁹ Gary Taylor, Deputy Principal, BSHS, *Transcript of Evidence*, 1 November 2007, p2.

¹⁶⁰ Ibid, pp1-2.

¹⁶¹ Ibid, p4.

audit was requested by Mr Garnaut in response to some concerns raised with him about the financial management of the school. The audit findings were reported to Mr Garnaut in November 2005 and raised some concerns for Mr Garnaut relating to details on invoices, family members of the school's administration being on the staff of the BWP and concerns with the P & C.¹⁶² See paragraphs 3.59 to 3.60 for further details on the audit findings.

- 3.42 The Committee notes the view of Mr Garnaut that the problems experienced with the BWP was within the context of the BSHS being in serious financial and management difficulties:

*This was all in the context - and I am not sure of the relevance of this for you - of the school actually being in crisis and spiralling down itself as a school. The quality assurance work that I did in the school in 2005 was of much greater magnitude than any school I have ever done before in my life. I have a significant range of reports that will testify to that. The Balga Works program was one bit of a school that was in crisis and spiralling downwards.*¹⁶³

- 3.43 Mr Garnaut advised the Committee that Mr Taylor did not assist in improving the financial management of the BSHS due to Mr Hammond's reluctance to pass on the management of the BWP:

***The CHAIRPERSON:** I will just follow on from that. Mr Taylor was being directed to deal with the financial matters as well. Did that actually help in your view? Did the financial matters get better after that?*

***Mr Garnaut:** My observations were that in later 2005 Merv Hammond wanted to keep the Balga Works program - all elements of it - under his umbrella very tightly. My preference was for him to delegate responsibility to a deputy principal to take the pressure off him so that he could get on and lead other things in school that were starting to erode in the quality of the school, as I have described previously. But Merv Hammond had a very strong agenda to keep the Balga Works program very close to his chest in terms of management and operations. So Gary Taylor would not have had access to some of the information that I would probably have expected him to have*

¹⁶² John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 11 July 2007, pp3-4 and p14.

¹⁶³ Ibid, pp17.

*access to to do his planning, for example, for that particular program.*¹⁶⁴

Committee comment

- 3.44 The Committee notes that issues were identified with the BSHS and Mr Hammond, including the ability of Mr Hammond to plan and manage programs by the District Office in 2004, however, the District Office still allowed the implementation of an additional program, the BWP, at the BSHS before these issues had been adequately resolved.
- 3.45 The Committee notes that additional quality assurance processes were put into place in 2005 to support the BSHS, namely the placement of a supplementary deputy principal and additional financial management support to the Principal and Registrars. However, these processes did not prove effective in this instance. The Committee queries how the DET could not be aware that MITS, and then Hurson, were operating as a private provider and that significant amounts of expenditure was being paid out for the BWP to MITS and Hurson. The Committee questions the strength of the accountability mechanisms of the DET. Alternatively, the Committee questions whether full and frank disclosure of evidence has been made to the Committee.
- 3.46 The Committee is of the view that the audit process of schools and their programs by the DET in this instance was inadequate in identifying issues with the BWP in a timely manner, particularly the large expenditure being paid by the BSHS to MITS and Hurson for service delivery.
- 3.47 The Committee notes that under the policy of devolution of authority to the principal of a school there is a heavy reliance placed on the principal of a school by the DET to ensure that the school is run in an appropriate manner. The Committee notes the checks and balances in place by the DET to oversee the running of school programs and queries whether they are adequate.
- 3.48 The Committee notes that the appointment for the position of supplementary deputy principal was undertaken by a panel that was chaired and led by Mr Hammond and comprised other senior staff.
- 3.49 The Committee is of the view that due to the unusual circumstances facing BSHS at the time, that:
- once it was determined that the BSHS required assistance it was appropriate for the District Director to take a leadership role in the appointment process (of the supplementary Deputy Principal). Mr Hammond should not have been the Chair of the selection panel; and

¹⁶⁴ Ibid, pp19-20.

- the DET should have ensured that the issues faced by the BSHS were being addressed as a result of the additional resources being provided.

DET RESPONSE TO THE DISCOVERY OF THE MOU

3.50 Following the discovery of the MOU by the DET, on 7 November 2005 Mr Garnaut met with Mr Hammond and Mr Michael Carton about the Liquidator's claim. Mr Hammond's position was that the MOU had been signed in response to a request by Mr John McQuay of MITS that it was needed to obtain further funds from their bank. Mr Michael Carton also stated that Mr McQuay required the signed MOU for presentation to MITS' bank.¹⁶⁵ Further, Mr Hammond disputed the legalities of the MOU. Despite having signed and forwarded the MOU, Mr Hammond claimed he verbally rescinded the agreement with MITS prior to the provision of any services. He claimed that he struck out Attachment 1 and 2 of the MOU making the agreement invalid¹⁶⁶ and that he made it clear to the MITS directors at the time of signing that the MOU was not a contract.¹⁶⁷

3.51 Mr Hammond and Mr Michael Carton stated that they signed the MOU after the meeting with Mr Di Pietro. The time imprint of the faxed version of the MOU states 9:23 am, however the date is not readable. When asked why he had signed the MOU, Mr Hammond stated that:¹⁶⁸

- a) John McQuay (of MITS) was putting pressure on me to sign it so he could negotiate with his bankers; and
- b) I didn't check it with anyone because it was only a memorandum of understanding.

3.52 Following the meeting with Mr Hammond, it was determined that this matter should be more fully investigated. The CCC were referred the matter, but upon consideration, the CCC requested that the DET investigate in the first instance.¹⁶⁹ The matter was also reported to the WAPS Public Sector Investigation Unit¹⁷⁰ who found no issue of criminality.

¹⁶⁵ Submission No 15 from the DET, August 2007, p7.

¹⁶⁶ 'Briefing Notes for the Minister for Education and Training regarding the Balga Senior High School/Manufacturing Industry Training Services Pty Ltd Vocational Education and Training Partnership', from John Garnaut, District Director, Swan Education District, DET, 11 November 2005.

¹⁶⁷ Briefing Note from John Garnaut, District Director, Swan Education District, DET, to Paul Albert, Director General, DET and Keith Newton, Executive Director (Teaching and Learning) North, DET, 23 November 2005.

¹⁶⁸ Submission No 15 from the DET, August 2007, p5.

¹⁶⁹ Ibid, p7.

¹⁷⁰ 'Briefing Notes for the Minister for Education and Training regarding the Balga Senior High School/Manufacturing Industry Training Services Pty Ltd Vocational Education and Training Partnership', from John Garnaut, District Director, Swan Education District, DET, 11 November 2005.

- 3.53 The DET then undertook an investigation into the circumstances surrounding the signing of the MOU.
- 3.54 Refer to paragraphs 3.67 to 3.79 for further information relating to the circumstances surrounding the signing of the MOU.

Investigation and Review of the BWP

- 3.55 After the notice of the existence of the MOU, the Balga Works Investigation Reference Group (**Investigation Reference Group**) was convened in November 2005, to consider the legal status of the MOU, the financial management of the BWP and the conduct of Mr Hammond. The reference group comprised the following directors and senior officers:¹⁷¹
- Keith Newton, Executive Director, (Teaching and Learning) North;
 - Kevin Smith, Acting Chief Finance Officer;
 - Peter McCaffrey, Chief Finance Officer;
 - John Garnaut, District Director, Swan Education District;
 - Peter Denton, Manager, Complaints Management Unit;
 - Annika Christou, Legal Officer; and
 - Aaron Young, Manager Operations, Swan Education District.
- 3.56 The Investigation Reference Group coordinated and oversaw an investigation of the facts relating to the signing of the MOU, and an audit of the BWP. As well as the October 2005 audit referred to above at paragraph 3.41, audits of the BSHS were conducted in November 2005, January 2006, June 2006 and December 2006. Reviews were undertaken by the Swan District Office, the Internal Assurance Directorate of the DET and Peter Burgess, an independent investigator.
- 3.57 The following reports were considered by the Investigation Reference Group:
- Initial report on the BWP by the Swan District Finance and Administration Officer, 17 November 2005 (**Borger Report**).
 - Internal Assurance Directorate of the DET audit of the BWP Preliminary Report 13 December 2005.
 - Peter Burgess investigation of the BWP December 2005.

¹⁷¹ Second Submission from the DET, August 2007, p2.

- Internal Assurance Directorate special Audit Investigation report January 2006.

3.58 The audits and investigations brought to light many serious deficiencies in the financial and contract management of the BWP. These are outlined below.

Discussion of audit findings and Borger Report findings

3.59 On or about 17 November 2005, Gerry Borger, the Swan District Finance and Administration Officer, provided a report about the BWP to Mr Garnaut. This report was commissioned in October 2005. The report indicated, amongst other things, that there were deficiencies in the management of the BWP and primarily that, from a financial perspective, there did not appear to be a clear understanding of the financial responsibilities of the various parties involved.¹⁷²

3.60 The report identified:

- i) that expenditure of the BWP was greater than the income;
- ii) most invoices had no information as to what the BSHS was being charged for, which was a breach of internal control as it would be impossible to verify that the invoice is correct and the goods and services have been performed;
- iii) BWP expenditure included payment to Hurson for accommodation cost of \$40,000. The report noted that this raised questions, including, how many houses were involved? What was the length of the lease, and whether the lease was in the BSHS's name or Hurson's?;
- iv) the invoice for accommodation expenses of \$16,500 was not numbered and while it said it was a tax invoice it did not meet the Australian Taxation Office's requirement as the Australian Business Number (ABN) was not included on the invoice;
- v) from the payments for accommodation and many others for food, groceries, personal items, medications and clothes it seemed that accommodation related to full board. It was unusual for a school to assume responsibility for these expenses;
- vi) payment of 22 Police Clearance applications for Hurson staff. Normal procedure for DET staff was that they paid for their own police clearance;
- vii) the BSHS's overall financial position was grim – the BSHS's unpaid accounts were far greater than its bank balance. The BSHS would be contravening the DET policy that creditors get paid within 30 days; and

- viii) the criteria required should the BWP continue in 2006 to maintain financial control.
- 3.61 In response to this report the DET advised the Committee that the District Finance Officer:
- a) over the subsequent nine months, worked extensively with the Registrars of the BSHS and Mr Hammond to address matters identified in the report and subsequent audits;
 - b) regularly attended to the BSHS, to the exclusion of other schools, to meet with Mr Hammond and Mr Taylor, Supplementary Deputy Principal; and
 - c) together with Mr Taylor, Supplementary Deputy Principal, endeavoured to work with Mr Hammond for the specific purpose of regularising the finances and management of the BWP.¹⁷³
- 3.62 On 13 December 2005 the ‘*audit/investigation report into alleged discrepancies in the financial management of the Balga Works Project at Balga Senior High School*’ prepared by Allan Jones, Manager, Corruption Prevention Risk Management, Internal Assurance Directorate, DET, was presented to Mr Garnaut. This audit commenced in late November 2005. The objective and scope of the audit/investigation was to determine whether BSHS was compliant with DET policies and procedures in the financial management of the allocated funds.
- 3.63 The audit was conducted to reveal:
- how the initial business contact between BSHS and MITS was enacted;
 - what processes were taken to establish the bona fides of the applicants;
 - how the tendering process was actioned;
 - what processes were used when choosing the second company Hurson;
 - how the second tendering process was actioned; and
 - the business policies, processes and procedures utilised by the BSHS.
- 3.64 The audit/investigation reported that without further examination of financial documents relating to the financial management of the BSHS and the ability to interview staff it was unable to provide a definitive answer as to whether the financial management of the BSHS was conducted in accordance with the Financial

¹⁷² Ibid, p2.

¹⁷³ Ibid, p2

Management in Schools Policy and Procedures Manual. However, the Internal Assurance Directorate recommended that a number of questions be answered, including:

- Did the BWP process go for tender in accordance with the required protocols? If not, why not?
- Was a formal/legal contract signed between the DET and/or BSHS and MITS, the original contractor? If so, who has that contract? If not, why not?
- Was the MOU between BSHS and MITS a legally binding document?
- Was the first contractor MITS a registered RTO?
- Who chose the second contractor (Hurson)? When and why?
- Did the use of the second contractor go to tender? If not, why not?
- MITS had gone into liquidation; was the second contractor (Hurson) chosen before or after this event?
- Was there a contract between BSHS and Hurson? If so, who has it? If not, why not?
- Who was the CEO/Owner of Hurson?
- Was the second contractor Hurson a registered RTO?
- Hurson had an ABN number 57 097 363 285 but had now ceased to operate as a company; is the school aware of this? If not, why not?
- Invoices now submitted to the school under the name Hurson bear an ABN number that does not refer to that company; was the school aware of this?
- The ABN currently used by Hurson (47 440 726 959) was in fact the ABN of a Family Trust; was the school aware of this?
- Was the DET allowed to pay monies to a Family Trust?

3.65 The audit/investigation also reported that without examination of further relevant documentation relating to the BWP tendering processes and the ability to interview staff involved in the process it was unable to provide a definitive answer on the question as to whether the actions of BSHS in relation to the BWP met the standards of the *Financial Administration and Audit Act 1985* and the State Supply Commission (SSC). However, the Internal Assurance Directorate recommended that the following questions be answered:

- An examination of Financial Reporting via Electronic Data Access system (**FREDA**) indicates rather a high expenditure by BSHS on mobile telephones, with \$18,560.38 expended and only \$1966.86 received for private calls. This left a balance of \$16,593.52 for business calls on mobile telephones. Who authorised this expenditure and why?
- Why has BSHS been using account D6260 to pay a varied number of suppliers, which is non-compliant with DET procurement processes? Who authorised the use of this account?
- Why was the BSHS budget not correctly finalised on time? Why was no action taken to rectify this problem?
- An examination of the FREDA indicates that the school reserve account has insufficient funds to sustain a school of this size. Why was no action taken to rectify this problem?
- BSHS 'unallocated' budget is in the negative. Why was no action taken to rectify this problem?

3.66 The report stated that *"the investigation into the complaint of possible discrepancies in the financial management of the BWP indicates a number of unresolved issues relating to the management of the BWP and other financial issues relating to school management need to be resolved."*¹⁷⁴ These issues were referred to an external investigation for further action.

Burgess report

3.67 The Investigation Reference Group engaged an independent qualified investigator, Mr Peter Burgess, in late November 2005 to undertake an investigation with the following terms of reference:¹⁷⁵

- verify the sequence of events and facts relating to the preparation and signing of the MOU;
- verify the sequence of events and facts subsequent to the signing of the MOU;
- verify the issues raised in correspondence from Bird Cameron Partners (28 October 2005);

¹⁷⁴ Corruption Prevention Risk Management, Internal Assurance Directorate, DET, *Audit/Investigation Report into alleged discrepancies in the financial management of the Balga Works Project at Balga Senior High School*, 13 December 2005, p3.

¹⁷⁵ Second Submission from the DET, August 2007, Attachment D.

- verify the role of Mr Michael Carton in Balga Works, with reference to MITS and any other relevant company or service provider; and
- identify whether the services the subject of the MOU have been provided from an alternative source and at what cost.

3.68 Mr Peter Burgess presented his report on 21 December 2005 '*Investigation Balga Works Program Department of Education and Training*'. This report included a record of interviews with Mr Hammond, Mr Michael Carton and relevant DET staff along with a consideration of the documents and context of the signing of the MOU.¹⁷⁶ The report concluded that:¹⁷⁷

- it appeared MITS approached Mr Hammond in May 2004 about the MITS program;
- Mr Michael Carton travelled to BSHS between ten and 12 times in 2004. Mr Michael Carton's work appeared to have been a mixture of business development work for MITS while preparing the facilities at the BSHS for commencement of the MITS program at the BSHS;
- the liquidators statement '*in 14 February 2005 MITS and BSHS entered into a MOU which was stated to be binding on the parties*' was not able to be substantiated by Mr Hammond and Mr Michael Carton. In addition it was claimed Mr Hammond was coerced by Mr McQuay to sign the MOU;
- the copy of the MOU Mr McQuay received did not have Mr Hammond's comment 'not agreed to waiting state tender instructions' or his signature under the comments. It was not possible to conclusively state when Mr Hammond marked both attachments in the manner he did.
- the MOU was signed by Mr Hammond and Mr Michael Carton and a copy sent by facsimile to Mr McQuay by Mr Michael Carton prior to Mr Hammond and Mr Michael Carton meeting Mr di Pietro on 14 February 2005;
- there was insufficient supporting documentation for six MITS invoices presented and paid on 14 February for a total of \$59,400. Each of the invoices had a purchase order form signed by either Mark or Michael Carton: the former could be a conflict of interest while the later would be unauthorised; and

¹⁷⁶ Second Submission from the DET, August 2007, p4.

¹⁷⁷ Peter Burgess, *Investigation Balga Works Program DET*, December 2005, pp1-2.

- there were sufficient grounds to undertake an immediate audit of the BWP with a specific emphasis on Hurson due to apparent irregular practices concerning submission of their invoices to the BSHS.

3.69 The investigation also found that:¹⁷⁸

- between May 2005 and 1 December 2005 Hurson had been paid a gross amount of \$946,441;
- Hurson had not had an ABN since 30 March 2005 and provided an ABN for Carton & Day Family Trust on all invoices presented to the BSHS;
- there was minimal documentation provided to justify expenditure;
- there was no written contract or agreement between any party and the BSHS with regard to the work Mr Michael Carton was doing for the BWP; and
- the BWP reflected expenditure of \$1,136,068.66 from 1 January 2005 to 16 December 2005.

Findings of the Burgess report refuted

3.70 Mr John McQuay and Mr Thomas Sturt, former directors of MITS have submitted to the Committee that they refute the findings of the investigation into the signing of the MOU undertaken by Mr Burgess and the involvement of MITS in the BWP.¹⁷⁹

3.71 The Committee notes that Mr Burgess did not interview Mr McQuay or Mr Sturt as part of his investigation. The Burgess report notes that it had been intended to interview Mr McQuay and Mr Sturt by telephone, however, this was not possible as Mr McQuay did not return the message left for him:

*When Mr McQuay's mobile telephone number was dialled he did not answer: a voice mail message was left explaining the reason for the call, with a request for him to contact the Investigator. Mr McQuay did not contact the Investigator so it was not possible to put a series of questions to him.*¹⁸⁰

3.72 Mr McQuay and Mr Sturt have submitted to the Committee that they were not contacted by the Investigator.

¹⁷⁸ Peter Burgess, *Investigation Balga Works Program DET*, December 2005, pp117-118.

¹⁷⁹ Submission No 20 from Thomas Sturt, 16 November 2007 and Submission No 21 from John McQuay, 14 November 2007.

¹⁸⁰ Peter Burgess, *Investigation Balga Works Program DET*, December 2005, pp6-7.

- 3.73 Mr McQuay and Mr Sturt submitted that from the end of May 2004 Mr Michael Carton spent much time in Western Australia setting up the program and from October 2004 a MITS office was set up within the BSHS and that MITS was employing staff to set up the program.¹⁸¹
- 3.74 In October 2004 it was agreed that a pilot program should be established, that the Swan Works position paper that was being developed was to be based on the MITS training program, and that an MOU should be established.¹⁸²
- 3.75 Mr Sturt submitted that Mr Garnaut, as part of the work of the Swan Works Steering Committee requested an MOU to be drawn up to clearly outline the responsibilities of the parties, and for line management responsibility to rest with the principal of BSHS. Mr Michael Carton drew up the MOU.¹⁸³
- 3.76 Mr McQuay submitted that Mr Hammond advised him in December 2005 that the project would begin in February 2005 and payments would be made to MITS.¹⁸⁴ Mr McQuay submitted that an agreement was discussed and that Mr Hammond had advised him that he and Mr Michael Carton would arrange this.
- 3.77 Mr McQuay denied that he had any contact with Mr Hammond and in no way put any pressure on Mr Hammond to sign the MOU:

*Contrary to the report in the Burgess investigation, I had not had any contact with Hammond and certainly had no to [sic] way to pressure him, and the story about the Bank is nonsense as I was always the Banker myself and if I recall we may have had an overdraft of \$25,000 which was covered by my guarantee.*¹⁸⁵

- 3.78 Mr Sturt submits that he was present at the BSHS on 14 February 2005 when the MOU was signed. The schedules were not struck out.
- 3.79 Mr McQuay submitted that sometime later, maybe the following day Mr Michael Carton advised him that Mr Hammond had written across the attachment on his copy of the MOU that he did not agree with the payment terms and that it would have to go to tender.¹⁸⁶

¹⁸¹ Submission No 21 from John McQuay, 14 November 2007, p2.

¹⁸² Ibid.

¹⁸³ Submission No 20 from Thomas Sturt, 16 November 2007, pp2-3.

¹⁸⁴ Submission No 21 from John McQuay, 14 November 2007, pp.2-3.

¹⁸⁵ Ibid, p3.

¹⁸⁶ Ibid.

Internal Assurance Directorate special audit

3.80 On 30 January 2006 the Internal Assurance Directorate of the DET presented a report '*Special Audit Investigation Balga Senior High School Balga Works Program*'.¹⁸⁷ This was a financial audit of the BWP with a primary focus on payments made to Hurson. The report found that:

- No formal contractual arrangement existed between the BSHS and Hurson for the delivery of the BWP; therefore it was not clear on what basis payments were made to Hurson.
- Most invoices from Hurson had minimal descriptions and/or details; consequently monitoring of claims by Mr Hammond was ineffective.
- Payments were not made in accordance with internal control procedures as per the Financial Management in Schools Policy and Procedures Manual.
- There were potential conflicts of interest by DET employees.
- DET employees involved in the BWP failed to comply with SSC and DET policies and this may have resulted in misconduct or a breach of discipline as per the DET's *Staff Conduct* policy. Based on the limited documentation provided and limited investigation conducted, it is not possible to determine the guilt or innocence of staff on the 'balance of probabilities'. However, the audit indicates the possibility that one or more persons involved in the BWP may be guilty of breach of discipline or misconduct.

3.81 The report recommended that:

- The BSHS should formally request the assistance of the DET's contract services branch to prepare appropriate SSC approval and commencement of a formal contract for the supply of services to the program. No further payments to Hurson should be made under existing arrangements until a formal agreement had been entered into.
- Future payments resulting from the contractual arrangements recommended above should strictly follow the policies and procedures of the Financial Management in Schools Manual.
- Due to the risks associated with the program, performance management processes should be established to ensure proper financial management.

¹⁸⁷ Second Submission from the DET, August 2007, p5.

- From the information obtained through the internal investigation and audit, there was a possibility that persons involved in the BWP may be guilty of a breach of discipline or misconduct. The matter should be referred to the Manager, Complaints Management Unit for his consideration and further action.

3.82 The overall conclusion of the report was that:

*It is not possible to ascertain the veracity of payments to Hurson Pty Ltd due to financial mismanagement of the Balga Works Program. No formal contractual arrangement exists and the basis for payments cannot be determined. This is compounded further by insufficient or inadequate documentation for the payments made. As a consequence, one or more persons involved in the Balga Works Program may be guilty of a breach of discipline or misconduct.*¹⁸⁸

Committee comment

3.83 The Committee notes:

- a) the numerous extensive investigations undertaken at the direction of Mr Garnaut and the Investigation Reference Group into BSHS and the BWP; and
- b) that the findings of the audits and investigations undertaken showed extraordinary misconduct and deficiencies in the financial and contract management of the BWP that required immediate response.

Further considerations by the Investigation Reference Group

3.84 The Investigation Reference Group also considered a report prepared by BSHS ‘*Balga Works Program Progress Report (Dec 2005) and Forward Planning 2006, Draft*’ and addendums to this report provided by Mr Hammond, which outlined the achievements of 2005 and proposed recommendations for the 2006 operation of the BWP, including funding. This included:¹⁸⁹

- enrolment based staffing for 2006, funded by the DET through FTE conversion;
- the application of additional multipliers to cover the costs associated with running the program for 50 weeks not 40 and with an extended day running at 2200 minutes not 1600 minutes per week;

¹⁸⁸ Internal Assurance Directorate, *Special Audit Investigation*, BSHS Balga Works Program, January 2006, p3.

- Hurson and the P & C were sourcing funding and staffing support from external agencies that were participating in the BWP;
- a MOU is being planned and drawn up with several external agencies, both State and Commonwealth, for a pro rata basis of funding and staffing support for the BWP, to be advanced in the first part of 2006;
- a proposal that a new position of Balga Works Registrar be created.

3.85 In addendum 2 to the report, Mr Hammond advised Mr Garnaut that the BSHS was concerned about its capacity to maintain adequate processes for dealing with the complex financial and accounting arrangements and accountability associated with the BWP. Mr Hammond advised Mr Garnaut that:

*the effect as Balga Works has progressed in 2005 and grows into 2006, is that Balga SHS finds it increasingly difficult to handle the demands of managing the finances of the Program the bottom line is that Balga SHS no longer feels able or appropriate to accept the responsibility for the Program's mounting financial accounting and accountability demands.*¹⁹⁰

Therefore, DET was made aware of Mr Hammond's financial accountability concerns.

DET decision to keep the BWP running

3.86 The Investigation Reference Group identified key accountability and contract management issues. The Investigation Reference Group also identified and noted the following:¹⁹¹

- that there was strong advocacy for the BWP from agencies including the Police, Juvenile Justice, DCD, Crime Prevention Council, Ministry of Justice, local magistrates and the Smith Family;
- that the P & C was currently liaising with a range of government and non-government agencies to attract financial support for the program for 2006;

¹⁸⁹ Second Submission from the DET, August 2007, p3 and Attachment G.

¹⁹⁰ Second Submission from the DET, August 2007, Attachment G, email from Mr Hammond, Principal, BSHS, to Mr Garnaut, District Director, Swan Education District, DET, dated 7 December 2005, Addendum 2.

¹⁹¹ Briefing note from John Garnaut, District Director, Swan Education District, DET, to Paul Albert, Director General, DET, 21 December 2005 and 'Advice/Briefing notes for the Minister for Education and Training Regarding Investigation into the Balga Works Program', from Keith Newton, Executive Director (Teaching and Learning) North, 21 December 2005.

- the work of the supplementary deputy principal, Mr Taylor, was beginning to impact in bringing about improved planning, management, and accountability practices at BSHS;
- Mr Hammond's vision for the program was to have outside agencies provide all of the supplementary funding for the program, whilst DET would provide enrolment driven resourcing only. Mr Hammond claimed that, through the P & C he was close to getting formal agreement from a range of agencies for the supplementary funding; and
- Mr Hammond's reputation.

3.87 It was determined that given its obligations to existing students and dealings with other government agencies, BSHS was committed to delivering the BWP in Semester 1, 2006.¹⁹²

3.88 Mr Keith Newton, the former Executive Director (Teaching and Learning) North advised the Committee on the rational of the decision of the Investigation Reference Group to keep the BWP running in 2006:

***Mr Newton:** At that point, there was a major concern for the students who were already in the program that if the department stopped it while it carried out all those investigations, and then found everything to be okay, mainly the financial arrangements, we would have been putting a large number of kids at risk. So, the judgement was to continue with the program while we carried out a range of investigations, and each time we went further in the investigations we uncovered more and more difficulties, until we reached the point where it was no longer tenable and we had to close it.*

And:

***Mr Newton:** The reference group was of the view that the findings in the audit report, if the school was brought into line, it could be made to work, and we were conscious of the view that there was a large group of students that would be significantly disadvantaged if we did not. An educational decision about the welfare of some students was of prime concern, with a view that with proper management, it could be made to work.*¹⁹³

¹⁹² Submission No 15 from the DET, August 2007, p7.

¹⁹³ Keith Newton, A/Deputy Director General, Schools, DET, *Transcript of Evidence*, 19 October 2007, p8 and p12.

- 3.89 The Committee was advised that the Investigation Reference Group did not inquire into the educational abilities of the service provider as no concerns had been raised at that time:

Hon KEN TRAVERS: *But surely establishing their educational abilities would have been fundamental, because if it is about protecting the children, surely making sure that they can actually deliver the educational programs would have been fundamental to that decision before you allowed it to continue. To allow it to continue with a bad education provider could be even more detrimental to the students than closing the program, could it not?*

Mr Newton: *The provision of education for those students was vested in the school. The school had the responsibility for the educational program. So, if the school is using anybody else to provide services for educational purposes, the school needs to be overseeing that and assured and accountable for the educational outcomes of the students.*

Hon KEN TRAVERS: *But in early 2006, at the time of the investigation reference group, the school had shown itself to be incapable of doing that, had it not?*

Mr Newton: *Well, the school had shown itself to be somewhat deficient in arriving at financial arrangements, but it had not demonstrated anything about its educational capacity.*

Hon PETER COLLIER: *How would you have determined that, though? Were there any checks in terms of the outcomes in the literacy and numeracy component of the program?*

Mr Newton: *The district director oversights the school through the school review process and had not drawn any attention to me, to my knowledge, about deficiencies in the educational program. That is not to say all students were achieving at optimal levels - there would be some students who were not - but it was not drawn to my attention, or to that committee's attention, that there were faults with the educational program. There were certainly faults with the financial management of the program.*

And further:

Hon KEN TRAVERS: *If you have got those problems in terms of the financial arrangements, would not that potentially alert you to the fact that you needed to make sure that the educational programs were also being delivered? I would have thought that it would be difficult*

to separate the financial outcomes from the educational outcomes. If there are serious problems with the financial outcomes, it would certainly make me question whether there were not problems with the educational outcomes as well. Because of the fact that they are running ahead, they are trying [to] get too far advanced, they may be cutting corners. If they are cutting corners on the finances, they may be cutting on the educational side of it to try and achieve an overall goal.

Mr Newton: *Anecdotally, there was a lot of evidence to say that these students were doing quite well within the program, but we did not commission a particular review of the educational program, that is true. That would have been done through the normal school review process.*¹⁹⁴

3.90 The DET agreed to provide sufficient funding for the BWP to operate for Semester 1, 2006, as long as contractual requirements could be met. This would allow sufficient time for the BSHS to negotiate supplementary resources through relevant agencies. If the BSHS failed to attract the necessary resource support, the DET would consider program closure for Semester 2, 2006.¹⁹⁵

3.91 The DET advised the Committee that the Investigation Reference Group adopted the position that they were supportive of the BWP continuing into the immediate future but that this was dependant on:¹⁹⁶

- i) further restrictions on the resourcing of the BWP;
- ii) obtaining written confirmation from other agencies involved about their financial commitment to the BWP;
- iii) commencing the winding back of the BWP;
- iv) establishing contracts for arrangements already in place; and
- v) payments to Hurson or any other private provider being approved in writing in accordance with appropriate process and practices.

3.92 The Investigation Reference Group determined that:¹⁹⁷

¹⁹⁴ Ibid, p9 and p10.

¹⁹⁵ 'Advice/Briefing notes for the Minister for Education and Training Regarding Investigation into the Balga Works Program', from Keith Newton, Executive Director (Teaching and Learning) North, DET, 21 December 2005.

¹⁹⁶ Second Submission from the DET, August 2007, p4.

¹⁹⁷ Balga Works Investigation Reference Group, Minutes of Meeting, 6 February 2006.

- a framework for operation needed to be established immediately and no further payments were to be made until that was in place;
- enrolments and attendance must be checked regularly;
- BWP would continue to be monitored through Mr Hammond's Performance Management; and
- a breach of discipline or misconduct regarding the management of the program was to be referred to the Complaints Management Unit.

3.93 On 7 February 2006, Mr Garnaut wrote to Mr Hammond and advised him that:¹⁹⁸

- a) a contract for the delivery of the BWP for semester one must be established immediately, with aim to have the contract completed by the end of the week;
- b) a plan for the BWP for semester one must be established immediately, including a plan for income and expenditure, with aim to have the contract completed by the end of the week;
- c) there were to be no further payments to Hurson until the contract and plan were ratified;
- d) professional advice and support would continue to be provided from Mr Borger to assist with financial management issues;
- e) non-salary items are not to be paid from the BWP budget (a list of the items not to be paid from BWP budget will be provided to Mr Hammond); and
- f) Mr Hammond's performance management agreement is to include a goal relating to the effective management of the BWP, specifically appropriate planning, budgeting, contractual processes, and financial management consistent with the DET's policies and guidelines.

3.94 It was determined that Mr Garnaut would provide written directives to Mr Hammond regarding drafting of contracts and payment of invoices. Mr McCaffrey would provide officers to assist the Registrars at BSHS if required to ascertain which invoices should be paid. Mr Taylor, Mr Hammond and Mr Di Pietro were to liaise to draw up a contract for BWP for Semester 1, 2006 which would clearly articulate the

¹⁹⁸

Second Submission from the DET, August 2007, Attachment M.

arrangements for the BWP and also to prepare a more formal contract for the future of the program to meet SSC guidelines.¹⁹⁹

3.95 Mr Garnaut summarised the decision of the investigation reference group as follows:

Hon KEN TRAVERS: *I just want to go back to a comment you made earlier in terms of when you said Merv Hammond was not involved in the decision making to continue the program - right?*

Mr Garnaut: *Yes.*

Hon KEN TRAVERS: *That was correct, was it not, in 2006?*

Mr Garnaut: *No. He sought permission to continue into 2006, but he was not involved as a decision maker in the continuation of the program for '06.*

Hon KEN TRAVERS: *That was made at a higher level.*

Mr Garnaut: *Yes.*

Hon KEN TRAVERS: *At the reference group, the investigation reference group.*

Mr Garnaut: *Made at that level.*

Hon KEN TRAVERS: *Who then was charged with the responsibility for implementing the program once the decision was taken to continue the program?*

Mr Garnaut: *Well, as principal of the school, Merv Hammond had responsibility for implementing all programs in his school, including the Balga Works program.*

Hon KEN TRAVERS: *Right, so once it was ticked off by the reference group, it went back to Merv Hammond.*

Mr Garnaut: *To implement.*

Hon KEN TRAVERS: *To implement.*

¹⁹⁹

Briefing Note from John Garnaut, District Director, Swan Education District, DET, to Paul Albert, Director General, DET and Keith Newton, Executive Director, Teaching and Learning, (North), DET, 'Briefing for the Director General regarding the Balga Works Investigation Reference Group's Findings as of 23 January 2006', 25 January 2006.

Mr Garnaut: *With the supplementary support from Gary Taylor and with significant additional support from the district finance and administration officer.*

Hon KEN TRAVERS: *Was there any formal instructions given to Mr Hammond at that time that his normal powers as a principal to be in complete control of his school were constrained in any way in regards to the implementation of this program?*

Mr Garnaut: *The directives given to Mr Hammond were to operate within the budget as articulated in the program plan and to operate within department policies and guidelines.*²⁰⁰

3.96 Mr Newton advised the Committee that:

Hon KEN TRAVERS: *I just want to go - in terms of when the decisions would have been taken to - whether to continue the program in 2006, was there any assessment or - made of what actual programs Hurson was delivering?*

Mr Newton: *The programs that Hurson's ultimately ended up delivering in 2006 were part of the plan that Merv Hammond had as to how he saw this going in 2006. So, it was not an audit as such of the programs, but there was a check on the plan to see if that was a viable plan. Does that not help?*

Hon KEN TRAVERS: *I am not sure I understand.*

Mr Newton: *Mr Hammond was asked to provide a plan for how this program would work in 2006 and the financial obligations that went alongside it. So, inside that was his plan - this would be what the students would be doing and this would be the cost associated with it and this is where he was intending to get the money to be able to fund the program. Now, he was asked to provide that in January - well, he was actually asked to provide it December 2005 in readiness for 2006. But we had further discussions with him in January 2006 because the plan he provided at the end of 2005 was not sufficiently convincing that this could be achieved within the financial arrangements he had put in place.*

Hon KEN TRAVERS: *Why was it not sufficiently convincing - that he was trying to do too much for the amount of money that was there?*

²⁰⁰ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p27.

Mr Newton: *Yes. It was an overextension and overestimation of what revenues or - sorry, I will start again. It was an overestimation we believe on what revenues he thought he was going to get and an overexpenditure of what he thought he would be able to achieve, and so he was asked to go back and have another look at that plan to see if it was actually viable given what he was trying to achieve.*

Hon KEN TRAVERS: *So the plan that he finally brought back that was used to make the decision to go ahead, was that then sustainable? Was that only relying on department resources, or did it still require resources from elsewhere?*

Mr Newton: *Merv had two views. He had one plan that required and could be achieved within department resources. But he always had the view that if he could achieve access to other resources he could expand that. And so the number of students he eventually planned for was reduced to what he could do inside the department's resources - or when I say the department's resources, those resources his school would normally have access to.*

Hon KEN TRAVERS: *But the decision was made - it was the investigation group that made the decision or the - it was not Merv Hammond that was making the decision to continue the program at that point, was it? It was the department that was making the decision to continue that program.*

Mr Newton: *The department made the decision to allow Mr Hammond to continue with the program on the basis that it was going to be able to be done with - inside the normal resources of the school.*

Hon KEN TRAVERS: *So, but that is what I am saying. So it was the investigation group that was making the assessment about whether or not the resources that were available and the program that was going to be delivered with those resources was viable in terms of the sustainability.*

Mr Newton: *Yes.*

Hon KEN TRAVERS: *And that was purely relying on departmental resources.*

Mr Newton: *Yes.*²⁰¹

²⁰¹Keith Newton, A/Deputy Director General, Schools, DET, *Transcript of Evidence*, 19 October 2007, p20.

Committee comment

- 3.97 The Committee notes that the Investigation Reference Group wanted the program to continue and succeed and considered the program salvageable. Whilst they recognised that the BWP had obvious management and financial issues, they also considered that there were students with high needs in the BWP that they did not want to abandon.
- 3.98 The Committee notes that the Investigation Reference Group focus was on the MOU and the financial management of the BWP, not on the performance of the service provider. The Investigation Reference Group did not inquire into the educational abilities of the service provider or the performance of the service provider on the ground.
- 3.99 In allowing the BWP to continue, the Investigation Reference Group recommended restrictions be placed on the resourcing of the BWP and directed that the program be wound back. Further performance management of Mr Hammond was to continue with additional support to be provided by the Deputy Principal and from the District Finance and Administration Officer.
- 3.100 The Committee notes that this decision was made despite the fact that Mr Hammond had made it clear to the Investigation Reference Group that more funding was required and that BSHS no longer felt able or appropriate to accept the responsibility for the BWP mounting financial accounting and accountability demands.
- 3.101 The Committee is of the view that the Investigation Reference Group decided to keep the BWP running without implementing any real change to address the problems identified. Of most significance, both Mr Hammond and Hurson were allowed to continue to run the BWP. The Committee is of the view that the additional support provided by the Deputy Principal and from the District Finance and Administration Officer was not an adequate response to address the severity of the problems identified.
- 3.102 The Committee can find no evidence that shows that the issues identified in the audits were addressed or resolved by the Investigation Reference Group or how it was intended they be resolved. This includes the overexpenditure on the BWP versus its income, the large payments made to Hurson, the negative bank balance of the BSHS, and lack of adherence to the DET protocols.
- 3.103 The Committee is of the view that the response of the Investigation Reference Group to allow the program to continue indicates that there was a failure to recognise the seriousness of the problems being experienced with the BWP. The DET was aware of extraordinary misconduct and deficiencies in management at BSHS at that time.

THE BALGA WORKS PROGRAM IN 2006
DET funding of the BWP

- 3.104 As stated above at paragraph 2.99 the DET was funding the BWP education component via the conversion of FTEs. BSHS had made salary FTE conversion requests for Semester 1, 2005 (in September 2004). In Semester 2, 2005 the BSHS requested further salary FTE conversion²⁰² to cope with the rapid growth in the BWP, with enrolment numbers in Semester 2, 2005 rising to 150 from 48 in Semester 1, 2005.²⁰³
- 3.105 During 2005 enrolment figures were forwarded to the Swan Education District Office by Mr Hammond on a month by month basis. The Swan Education District Office Manager Operations worked with the DET Manager of Staffing to facilitate an FTE conversion to salary pool for the number of students involved. This conversion started to flow to the school in June 2005 for Terms 1 and 2, 2005 and in July, August and November 2005 for Terms 3 and 4, 2005.²⁰⁴
- 3.106 The FTE conversions are based on a complex formula (see information provided by the DET attached at **Appendix 7**). For instance, the following information was provided to the Committee:

The FTE conversions in 2005 were based on the following enrolment figures:²⁰⁵

- On 2 June 2005 the FTE conversion paid was based on student enrolments of 53 for Term 1, and 120 for Term 2, with an average for the full year of 43 students.
- On 11 August 2005 the FTE conversion paid was based on 94 FTE students for Semester 2, 2005. (the total Year 11 VET students plus BWP students was 178 for Semester 2.²⁰⁶ The enrolment figures for Term 1, 2005 was 53 full time Year 11 VET students; and Term 2, 2005 131.4 full time Year 11 VET students.)
- The Semester 1, 2005 average was 92.2 full time Year 11 VET students and Semester 2, 2005 was 158 full time Year 11 VET students.

²⁰² Eighth Submission from the DET, November 2007, p2.

²⁰³ Melissa Gillett, Deputy Principal, BSHS/Manager Operations, DET, *Transcript of Evidence*, 3 December 2007, p11.

²⁰⁴ Fifth Submission from the DET, September 2007, p4.

²⁰⁵ Letter from Melissa Gillett, DET, 18 December 2007, Appendix 13, Letter from Melissa Gillett, Manager Operations, DET to Milan Trifunovic, Manager, School Resourcing, DET, 11 August 2005.

²⁰⁶ Ibid, Appendix 6c, Staffing Directorate, BSHS Staffing Allocation Chart - Year 2005, DET, 14 December 2005.

3.107 The BSHS applied for additional funding from the conversion of the BSHS's FTE on the basis that the BWP was an intensive program over a 50 week year rather than the normal 40 week school year.²⁰⁷ The application for use of the multiplier was made in October 2005 (just prior to the Liquidators claim in relation to the MOU).

3.108 Two multipliers were applied for:

- i) The annual program multiplier was based on attendance at the BSHS for 50 weeks of the year versus 40 weeks. The multiplier applied was 1.25.²⁰⁸
- ii) The weekly program multiplier was based on attendance for 2250 minutes per week as apposed to 1600 minutes per week. This time is based on the actual length of each day for five days per week. The multiplier applied was 1.4.²⁰⁹

3.109 The multipliers were applied to the conversion payments in Semester 2, 2005. The BSHS was made aware, however, that the use of the multiplier would be reviewed for 2006.²¹⁰ As stated by Melissa Gillett, DET:

*Ms Gillett: Most of the documentation, like the approval on the final amount that had an agreement in principle back from staffing, from Geraldine Farr, said that there would be a review for how things would be the following year, so there was nothing fixed one way or the other.*²¹¹

3.110 The Committee notes that there was a delay in receiving the FTE conversions in Semester 2, 2005 - the hold up being from the Schools Resourcing Branch.²¹² The Committee was advised that the reluctance of the Staffing Directorate to provide additional funding in November 2005 was based on concerns around the accountability practices at the BSHS for the FTE conversions and the employment of an external provider.²¹³

²⁰⁷ Letter from Peter McCaffrey, Deputy Director General, Finance and Administration, DET, 2 November 2007, p2.

²⁰⁸ Eighth Submission from the DET, November 2007, Attachment C.

²⁰⁹ Ibid.

²¹⁰ Letter from Melissa Gillett, Manager Operations, DET, 18 December 2007, Appendix 20, Email from John Garnaut, District Director, Swan Education District, DET to Mervyn Hammond, Principal, BSHS, 31 August 2005.

²¹¹ Melissa Gillett, Deputy Principal, BSHS/Manager Operations, DET, *Transcript of Evidence*, 3 December 2007, p11.

²¹² Letter from Melissa Gillett, Manager Operations, DET, 18 December 2007, p1 and Appendix 3, Email from Melissa Gillett, Project Manager, Education Policy and Planning, DET to John Garnaut, District Director, Swan Education District, 21 October 2005.

²¹³ Letter from Peter McCaffrey, Deputy Director General, Finance and Administration, DET, 2 November 2007, p2.

3.111 The use of the annual and weekly program multiplier was discontinued in 2006 and the BWP was funded on a flat student population rate of 100 FTE students.²¹⁴ The Staffing Directorate had adopted the position that one FTE was worth one FTE regardless of whether it was for a 40 or 50 week year.²¹⁵ Table 1 outlines the FTE salary conversion payments received by the BSHS for the BWP. (The FTE conversions are based on a complex formula. See information provided by the DET attached at **Appendix 7**).

Table 1

FTE Salary Conversion Payments²¹⁶

Date	FTE	Amount	Multiplier applied
8 June 2005	3.54	\$185 120.00	weekly
12 August 2005	6.34	\$331 240.00	weekly and annual
2 November 2005	4.0	\$209 040.00	weekly and annual
21 November 2005	2.93	\$153 140.00	weekly and annual
3 March 2006	8.7	\$248 875.00	none
23 June 2006	8.7	\$248 875.00	none

3.112 The Committee notes that the '*BWP Progress Report (Dec 2005) and Forward Planning 2006 DRAFT*' prepared by the BSHS that was considered by the Investigation Reference Group on 16 December 2005, recommended, amongst other things, that in order for the BWP to continue to meet the outcomes sought for 2006, the funding multipliers of 50/40 and 2200/1600, which recognised the full-time wrap-around nature of the program, needed to be applied to the FTE component and hence be continued at current levels in the 2006 budget. In the budget attached to the report it was evident that shortfalls would occur if the multiplier was not applied:

During the trial period the additional multipliers applied to cover the costs associated with running this program for 50 weeks, not 40, and with an extended day running at 2200 minutes, not 1600 minutes, per week, were found to be essential for the Program's operation. The application of the multipliers is not a one-off. This is a factual requirement of the Program and reflect real and ongoing costs.

²¹⁴ Eighth Submission from the DET, November 2007, p4.

²¹⁵ Letter from Peter McCaffrey, Deputy Director General, Finance and Administration, DET, 2 November 2007, p2.

²¹⁶ Eighth Submission from the DET, November 2007.

The two relevant multipliers – 50/40 and 2200/1600 – have been granted in 2005. We seek the current reapplication of these multipliers beyond this school year and day, to guarantee the viability of Balga Works and to allow the Program’s development to continue.

...

The service provider and Balga P&C are well advanced in sourcing funding and staffing support from several external agencies that are participating in the Program. When and as such funding is realised, it is anticipated that the multipliers will no longer be essential to the program (refer to Memoranda of Understanding, below). As this occurs, DET will be advised and multipliers can be removed.²¹⁷

Shortfall of funds for the BSHS and the BWP

- 3.113 The Swan District Education Office became aware that the BWP was experiencing financial problems from mid 2005. The Registrar of BSHS advised Melissa Gillett at the Swan District Education Office in May and June 2005 that the cost centre was in arrears and currently running in deficit.²¹⁸ This was raised with Mr Hammond:

Ms Gillett: ... That said, even once the amount was known, aside from the delay, I had communicated to the school what amount they could expect based on that total of 16.81 FTE. At that point, I remember in an email to Merv saying, “This number’s not as big as the number that you’ve got on your budget, so is there a problem?” He had identified that there was a shortfall around that time anyway. I am not sure what impact that had directly on 2006, but certainly that is when it became clear, probably for the first time at the district level, that there was a concern about whether the funding was appropriate or not. That is when John Garnaut made contact with his senior officers centrally. That may well have had a big impact on 2006 figures as well.²¹⁹

- 3.114 Mr Garnaut also raised this issue with Mr Hammond and instructed him to work with DET staff to ‘get on top of the issue quickly’.²²⁰

²¹⁷ Second Submission from the DET, August 2007, Attachment E.

²¹⁸ Letter from Melissa Gillett, DET, 18 December 2007, Appendix 24, Emails from Michelle Green, Registrar, BSHS, to Melissa Gillett, Swan District Education Office, 18 May 2005 and 22 June 2005. See also letter from Melissa Gillett, Manager, Operations, DET to Neil Wilson, Manager, Staffing, DET, 1 June 2005, which refers to financial position of the school.

²¹⁹ Melissa Gillett, Deputy Principal, BSHS, *Transcript of Evidence*, 3 December 2007, p11.

²²⁰ Letter from Melissa Gillett, DET, 18 December 2007, Appendix 16, Email from John Garnaut, District Director, Swan Education Officer, DET to Mervyn Hammond, Principal, BSHS, 19 August 2005.

- 3.115 The Committee notes that the financial and contractual management concerns with the BSHS were raised in the October 2005 audit, in particular that the expenditure of the BWP was greater than the income and also that the overall financial position of the BSHS was grim (see paragraph 3.60). The subsequent audits and investigations undertaken at the direction of the Investigation Reference Group also brought to light serious deficiencies in the financial management of the BWP.
- 3.116 The Committee notes that the DET were aware of the impact on the budget of the BWP of the multiplier not being applied to the FTE conversion (refer to paragraph 3.112).
- 3.117 Mr Taylor submitted that the financial problems being experienced by the BWP were exacerbated by the DET not applying the multiplier: On the issue of funding Mr Taylor advised:

***The CHAIRPERSON:** Do you have an explanation for why the staff were not being paid regularly? Did you have an understanding of why that was?*

***Mr Taylor:** Yes - the school simply ran out of money.*

***The CHAIRPERSON:** Because it was not coming through from somewhere else, or because it was badly managed or misspent?*

***Mr Taylor:** Sometimes both, but mostly badly managed - overspent.*

***Hon PETER COLLIER:** In what area would it have been overspent though? The conversion of the FTEs to the salary pool would have gone to the salaried staff employed through Hurson. How would the school then overspend?*

***Mr Taylor:** Because, what happened was they were relying on the department applying what they call a multiplier, because of the difficulty of the kids, which they actually received for a period of time. When you do a budget based on those figures - and I did a number of budgets for the program based on those figures - it was okay. The money out equalled the money in. But those multipliers changed a number of times and were withdrawn in the end, so we only actually ended up receiving the full multiplier effect for a very short period of time, and for the remainder of the time it was just like a normal staffing conversion, which was impossible to manage, because you needed extra staff to manage those sorts of kids. I mean, any special program for at-risk kids has - I mean the behaviour centres that are being set up now have a staffing ratio to kids of 1:2 or 1:3.*

...

***Mr Taylor:** With a staffing ratio like that, Balga works would have flourished. They would have had plenty of money and it would have been fine, and at one stage we were getting that, and we thought it was going to be fine. The problem was that DET kept changing its mind in terms of how much they were going to pay, so at each gateway we were expecting a certain amount of money. That becomes very rubbery, and in fact in the end we ended up getting about a third of what we were expecting to get and so the school simply ran out of money. It is simple maths.*²²¹

- 3.118 In late April 2006 further financial concerns relating in particular to cash reserves, invoicing, GST compliance and cash payments were raised with the DET. These indicated that the school was operating outside the budget of the 2006 program plan and financial management guidelines.²²²
- 3.119 On 12 May 2006 Mr Garnaut took financial management responsibility for the BSHS away from Mr Hammond and gave it to the deputy principal, Steven Rushforth.²²³ This was subsequently transferred to Mr Taylor on 7 June 2006, when Steve Rushforth accepted a position at another District.²²⁴
- 3.120 The DET discovered that Hurson from April 2005 to June 2006 had a gross salary liability of \$1,056,683, of which it had paid \$615,355.78 to its employees, with an outstanding liability of \$441,327.53. In addition Hurson had a liability of \$95,101.50 to meet its employees superannuation guarantee obligations. Hurson had used the unpaid money for program set-up and operating costs.²²⁵
- 3.121 Hurson had insufficient immediate financial resources to meet its financial obligations to its employees.²²⁶

²²¹ Gary Taylor, Deputy Principal, BSHS, *Transcript of Evidence*, 1 November 2007, p13.

²²² Briefing note from Keith Newton, Executive Director, Teacher and Learning North, DET, to Paul Albert Director General, DET, 'Financial Management Issues with Balga Works Program Education Component Update', 20 June 2006.

²²³ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p22.

²²⁴ Supplementary Information from Keith Newton, A/Deputy Director General, Schools, DET, (undated) and attached email from John Garnaut, District Director, Swan District Education Office, DET, to Eric Fleming, Internal Assurance, DET, 3 July 2006.

²²⁵ Briefing note from Keith Newton, Executive Director, Teacher and Learning North, DET, to Paul Albert Director General, DET, 'Financial Management Issues with Balga Works Program Education Component Update', 20 June 2006.

²²⁶ Ibid.

- 3.122 Further, BSHS had insufficient immediate financial resources to meet its obligations to Hurson for the in-school component of the BWP for April, May and June 2006²²⁷ and had insufficient financial resources to fund normal school operations. In June 2006 the shortfall was in the vicinity of \$266,000.²²⁸
- 3.123 From the DET point of view, Mr Hammond had failed to ensure that all relevant DET financial and procurement policies and practices were strictly adhered to despite ongoing advice, support and direction.²²⁹
- 3.124 To address the financial situation of the BSHS in mid 2006 the second semester school grant payment was brought forward to enable BSHS to meet its normal operating costs.²³⁰ This payment was \$146,000 on 23 June 2006. The second semester 2006 FTE salary conversion of \$248,875 was also forwarded to BSHS on the same date²³¹ to enable the school to meet its obligation to Hurson for April, May, June 2006. The documented obligation to Hurson for this period was \$256,037.82.²³²
- 3.125 Mr McCaffrey advised the Committee that he met with Mr Hammond, Mr Michael Carton and Mr Taylor in June 2006 and gave a commitment to investigate the schools financial position:

*Mr McCaffrey: ... I gave them a commitment that we would then look at the school and have a look at how that impacted on the operations of the school - not just the program but the school - and that if additional funding was required to make sure that those operations continued effectively, then that would be a decision taken when it was investigated, and that is when I think it was around about September that that was determined, and that was when I referred to, last time I was here, about the \$400 000, I think it was, that went out to the school in September, but there was no money given to say, "I am giving it to you to pay those salaries." I was not aware of that, but it was certainly my opinion, and I gave that advice, that if it was due to be paid and these people had lives and commitments, they were entitled to be paid.*²³³

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ Ibid.

²³¹ Letter from Peter McCaffrey, Deputy Director General, Finance and Administration, DET, 2 November 2007.

²³² Briefing note from Keith Newton, Executive Director, Teacher and Learning North, DET, to Paul Albert Director General, DET, 'Financial Management Issues with Balga Works Program Education Component Update', 20 June 2006.

²³³ Peter McCaffrey, Deputy Director General, Finance and Administration, DET, *Transcript of Evidence*, 15 October 2007, pp13-14.

- 3.126 Mr Hammond and Hurson reported to the DET that over expenditure had occurred as they were confident interagency resources, state and commonwealth could be forthcoming and sufficient to meet the shortfall. The BSHS, Hurson and P & C had been negotiating with a range of agencies to secure outside financial support for the BWP for an extended period.²³⁴
- 3.127 The DET provided direct program funding to the BWP of \$150,000 on 1 September 2006 and \$220,957 on 1 November 2006.²³⁵
- 3.128 Mr McCaffrey advised that the additional funding that was provided to the Balga Works program was to allow it to continue so it could be phased down until placements could be found for the students that were there.²³⁶
- 3.129 Mr McCaffrey advised the Committee that additional support of \$250,000 was provided to the school on 13 September 2006, not for the BWP but for the school:

***Mr McCaffrey:** I point out that some additional support was provided to the school late 2006 after an analysis of how the school had managed its finances for the whole of that year. It was found that, in order to meet commitments that had been engaged through the educational program, they had used other funds in the school that perhaps were there for reserves and replacement of equipment. Mr Garnaut arranged for Mr Borger to go out and do an analysis. I wanted to know the implications for the school, in a financial sense, to ensure that the kids who were in the school but not part of the special program, had sufficient resources left to make sure the school was still viable. I gained approval from our department to send an additional \$250 000 to the school mainly to reinstate the reserves that the school needed for future replacement of equipment items, assets and that type of thing. That was omitted from the original response that we gave, mainly because we had been talking about the Balga Works program. At the time I saw it more as a school in crisis that needed extra support, so those additional funds were sent out late in 2006 to restore those balances.*

***Hon PETER COLLIER:** Was it late 2006?*

²³⁴ Briefing note from Keith Newton, Executive Director, Teacher and Learning North, DET, to Paul Albert Director General, DET, 'Financial Management Issues with Balga Works Program Education Component Update', 20 June 2006.

²³⁵ Western Australia, Legislative Council, Parliamentary Debates (*Hansard*), Wednesday, 9 May 2007, p1911.

²³⁶ Peter McCaffrey, Deputy Director General, Finance and Administration, DET, *Transcript of Evidence*, 15 October 2007, p18.

Mr McCaffrey: *I have a date if you bear with me for a second. I would have put it out on 13 September. We have a gateway through which the money goes to schools. That would have been in September-October. I cannot remember the exact date.*

Hon PETER COLLIER: *That was not directly for the Balga Works program?*

Mr McCaffrey: *No; it specifically went to the school, specifically to reinstate those reserves.*²³⁷

And further:

*between September and November when the decision had been made to close the program and that there was still some accounts that were outstanding that had to be paid and it was necessary to support the school to make sure they had sufficient funds to continue for the rest of the year for the other students, because it was getting perilously close because they had used their bank account funds to pay these other accounts.*²³⁸

Committee comment

3.130 The Committee notes that:

- a) the BWP was incurring expenditure for which there was insufficient funding and this resulted in the BSHS utilising funds for the BWP that were allocated to other programs at the school;
- b) the BWP had ongoing financial problems;
- c) the delay in payments to the BWP and the loss of the multiplier contributed to the cash flow problems for BWP; and
- d) the DET were aware of the implications of their decision to limit funding to the BWP.

3.131 The Committee understands that the DET had justifiable reasons for not providing additional funding to the BWP. However, the restriction of funding to the program impacted negatively on the operation of the program.

²³⁷ Peter McCaffrey, Deputy Director General, Finance and Administration, DET, *Transcript of Evidence*, 11 July 2007, p13.

²³⁸ Peter McCaffrey, Deputy Director General, Finance and Administration, DET, *Transcript of Evidence*, 15 October 2007, p19.

3.132 The Committee notes that:

- a) the BSHS financial position for the remainder of the year would have been disadvantaged by bringing forward the school grant and FTE conversion for Semester 2, 2006 to enable the BSHS to meet its outstanding obligations;
- b) additional payments were made in September and November 2006 to the BWP so that the program could be wound down in an orderly fashion;
- c) additional payments were made in September and November 2006 to the BSHS to ensure that the school remained viable;
- d) the DET adopted the position that unless long term outside supplementary funding was secured by the end of Semester 1, 2006, the BWP be wound down and discontinued as soon as practicable;²³⁹ and
- e) there is no evidence to suggest that the DET provided any assistance to the BSHS to secure external long term supplementary funding.

DET OVERSIGHT OF THE BWP IN 2006

3.133 The Committee examined the actions of the DET in 2006 in ensuring compliance with the conditions placed on the BWP by the Investigation Reference Group and its monitoring of the operations of the BWP in 2006.

3.134 The DET in their submission advised the Committee that an operational plan for the BWP was developed. At this stage Mr Hammond was still involved in the development of the plan and the management of the BSHS. Additional administrative support was provided to the BSHS to support the BWP and work was undertaken to regularise the financial and contractual management of the BSHS. On 3 March 2006 a request was made to the SSC to allow the BSHS to continue to contract with Hurson, pending the development of tender documentation. The objective of the DET was to regularise the operations of BWP by the end of Semester 1, 2006 or wind it up.²⁴⁰

3.135 During Semester 1, 2006 given the operations and nature of the BWP it became apparent to the DET that further funding and resources were required to sustain it. A tender process for the delivery of the BWP was undertaken, however all responses were rejected on the basis of price. The BWP was wound down and finalised on 13 October 2006.²⁴¹

²³⁹ Briefing note from Keith Newton, Executive Director, Teacher and Learning North, DET, to Paul Albert Director General, DET, 'Financial Management Issues with Balga Works Program Education Component Update', 20 June 2006.

²⁴⁰ Submission No 15 from the DET, August 2007, p7.

²⁴¹ Ibid, p7.

June 2006 Audit

- 3.136 An audit of the BSHS undertaken in June/July 2006 rated the school as performing poorly in the five system control areas, namely: receipting and banking systems; purchasing and payment system; financial planning and management system; asset management system; human resources and management information system.

December 2006 Audit

- 3.137 In December 2006 the Internal Assurance Directorate undertook an audit/investigation with the objective to:²⁴²

- i) review BWP financial operations from its inception in September 2004 until its conclusion on 13 October 2006 to ascertain whether there was any indebtedness or other financial implications to the DET in relation to the BWP; and
- ii) review the key financial systems at BSHS post last school audit (June 2006), to provide the new principal with confidence about the financial position of the school.

- 3.138 The audit found that:²⁴³

- In the Internal Assurance Directorate's opinion the DET does not owe Hurson any further funds in relation to salaries for BWP staff. But due to the poor invoices provided by Hurson which lacked detail on the salaries being paid it was impossible for Audit to say conclusively that no further funds for salaries are due to Hurson. Added to this no contract/agreement in relation to the BWP existed between the DET/BSHS and Hurson which covered the staffing of the BWP.
- A number of payments made by the BSHS to Hurson specifically related to the BWP Joondalup accommodation business which the BSHS was not liable for. Hurson and Mr Michael Carton potentially owed the DET \$245,631 for these transactions.
- Of the 21 major and significant control issues raised in the BSHS Audit Report dated 7 July 2006 only five issues had been adequately dealt with/rectified by the BSHS as at 24 November 2006.

²⁴² Internal Assurance Directorate, *Special Audit Investigation Balga Senior High School Balga Works Program*, December 2006.

²⁴³ Ibid.

- Of the 18 moderate and minor control issues raised in the School Audit Report dated 7 July 2006 only seven issues had been adequately dealt with/rectified by the BSHS as at 24 November 2006.

3.139 The overall conclusion of the report was:²⁴⁴

- It was not possible to conclusively ascertain the DET's indebtedness to Hurson for the BWP due to financial mismanagement of the BWP by the BSHS.
- There were a number of matters in relation to BSHS administration of the BWP that may constitute either serious misconduct or corruption.
- The BSHS had a number of internal control issues that required resolution in the medium term (within 12 months).

Committee comment

3.140 The Committee notes that the issues identified by the Investigation Reference Group audits and investigations were not resolved by mid 2006.

3.141 The findings of the June and December 2006 audits show that the response of the DET to manage the continuation of the BWP was ineffective. The DET failed to resolve the financial management issues being experienced at the BSHS. The provision of additional support to the BSHS and the performance management of Mr Hammond was also ineffective.

State Supply Commission exemption condition - no contract entered into

3.142 The Committee notes that the Special Audit Investigation of Balga Senior High School Balga Works Program report by the Internal Assurance Directorate of the DET dated December 2006 (**IAD report**) reported that no formal contractual or legal arrangement appeared to exist between BSHS and any contractor with respect to the delivery of BWP that detailed roles and responsibilities of parties and terms for payment.²⁴⁵

3.143 The IAD report noted that as a result of their investigation of the BWP in December 2005 the DET's Chief Financial Officer, Mr Peter McCaffery sought an exemption from the public tender process for the BWP from the SSC on 28 February 2006. The exemption from the requirement to tender from the SCC was requested to allow the BWP to continue for six months and to conduct a public tender process.²⁴⁶

²⁴⁴ Ibid.

²⁴⁵ Ibid, p5.

²⁴⁶ Fifth Submission from the DET, September 2007, p2.

3.144 The SSC approved this exemption on 3 March 2006 with a proviso that the DET negotiate a short-term service agreement with Hurson for the BWP to the end of 2006. The parties negotiated a draft agreement in April 2006, but this was never executed.²⁴⁷

3.145 The Committee noted that the SSC condition was not met. In response to questions asked by the Committee in this regard the DET replied:

*The responsibility for ensuring that the Condition was met rests with the Director General of the Department as the head of the Public Authority. The Director General exercises the authority provided to the Department by the State Supply Exemption, in accordance with DTF Procurement Arrangement, on the advice of DTF Procurement Staff. The Condition was not met.*²⁴⁸

3.146 The DET advised that the process of developing the tender and formal contract was undertaken by the Department of Treasury and Finance procurement staff along with a Deputy Principal of BSHS from March 2006 to August 2006. The formal contract was not progressed or finalised during the course of the tender evaluation and once the decision was made to end the BWP. The DET advised that they had been unable to locate any record regarding a decision not to progress or finalise the formal contract.²⁴⁹

3.147 The Committee was advised that on 24 February 2006 a second MOU was signed between Mr Hammond as Principal of BSHS and Mr Michael Carton on behalf of Hurson. This was in contradiction to Mr Garnaut's directive to Mr Hammond not to sign such agreements until his approval had been obtained. The second MOU had been drafted by Mr Hammond and Mr Michael Carton and had not been sighted by the Investigation Reference Group or the DET legal officer Ms Annika Christou, who at the time expressed concern that the MOU did not contain the required legal statements.²⁵⁰

3.148 The Committee was advised that work was being undertaken on developing a formal contract. On why it took so long to develop Mr Newton advised that:

Mr Newton: *There was disagreement between the parties involved as to what exactly ought to be in the MOU and the commitments each would be making within that. The department was trying very much to limit the exposure, and I think, from memory, it was Mr Carton and*

²⁴⁷ Internal Assurance Directorate, *Special Audit Investigation Balga Senior High School Balga Works Program*, December 2006, p5.

²⁴⁸ Seventh Submission from the DET, October 2007, p4.

²⁴⁹ Ibid.

²⁵⁰ Sixth Submission from the DET, September 2007, and Attachment D, Balga Works Investigation Reference Group, Minutes of Meeting, 7 March 2006.

*company, which we were dealing with in that side of it, were looking for a far more expansive model that [sic] what we were willing to commit to.*²⁵¹

3.149 Mr Taylor advised the Committee that:

***Mr Taylor:** I do not think that was because of their reluctance to sign it off in a timely manner. I think it simply took so long to develop up. My recollection is that it was probably July before it was even presented as a finished document for signing. The wheels turn slowly in DET when it comes to legal services. If you are going to have anything like that that is quite a complicated document, that has to have very strong links to legislation and has to have strong links back to a tender process that is in place. It just spent so much time in the hands of lawyers and in the hands of department officials, and backwards and forwards, it was a bit of a nightmare, to be perfectly honest. Again, something I had never had any experience with before - and was required to draw up a legal document between two parties. I think it was presented in July for signing.*²⁵²

DET management of complaints from staff about unpaid wages

3.150 The Committee notes the role of the former workers of the BWP in raising community awareness of the issues surrounding the operation of the BWP, by taking their concerns to Members of Parliament. In particular, their concerns about the non-payment of wages, tax and superannuation, and also their concerns about inappropriate practices within the program.

3.151 The DET began to receive complaints related to unpaid wages of staff and contractors of the BWP in 2005. Complaints were received by Mr Hammond, the District Office, Central Office and the Minister for Education and Training's Office. In 2006 the number of complaints received rose significantly.²⁵³

3.152 The complaints received related to Hurson not meeting its salary and wages obligations to a significant number of persons who had carried out work as part of the on-site in-school hours program conducted by Hurson on behalf of the BSHS.²⁵⁴ Also Hurson owed money to a number of persons and or contractors for non-school related

²⁵¹ Keith Newton, A/Deputy Director General, Schools, DET, *Transcript of Evidence*, 19 October 2007, p15.

²⁵² Gary Taylor, Deputy Principal, DET, *Transcript of Evidence*, 1 November 2007, pp18-19.

²⁵³ Third Submission from the DET, August 2007.

²⁵⁴ Briefing note from Keith Newton, Executive Director, Teacher and Learning North, DET, to Paul Albert Director General, DET, 'Financial Management Issues with Balga Works Program Education Component Update', 20 June 2006.

aspects of BWP such as after-hours programs, submissions writing and residential supervision.²⁵⁵

3.153 Mr Garnaut advised the Committee that complaints received by the Swan District Education Office were referred back to Mr Hammond for his management and handling, as it was his responsibility to ensure that all programs within his school ran appropriately and people who were to be paid were paid appropriately.²⁵⁶ Complainants were advised that if they were not happy with the resolution, they were to then redirect their complaints back to the district office. The Committee was advised that in nearly all cases that did not happen. Complainants were also advised that they could go to the Industrial Relations Commission.²⁵⁷

3.154 The Committee notes that the Minister for Education and Training's Office was querying non payment of wages in March 2006 and was advised by Mr Keith Newton, Executive Director, Teaching and Learning North that:²⁵⁸

- Funding to the program was frozen for a period this year while a new contract was developed, resulting in some staff members not receiving regular salaries. This funding has now been released and staff payments are now occurring.
- The employee in question is on contract by the private provider and is now receiving regular payments.
- The management of the BWP is now closely monitored by Mr Garnaut, Mr Newton and Mr Hammond.

3.155 Legal advice received by the DET was that all employees' claims should be referred to Hurson which has the legal liability, not the DET.²⁵⁹

3.156 The Committee notes that the Investigation Reference Group did not consider the issue of unpaid wages when it was deciding whether the BWP should continue or not. However, the Committee notes that Mr Garnaut received an email in December 2005

²⁵⁵ Ibid.

²⁵⁶ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, pp23-24 and p25.

²⁵⁷ Ibid, p24.

²⁵⁸ 'Advice/Briefing Note for the Minister for Education and Training regarding the payment of 'employee' with the Balga Works Program', from Keith Newton, Executive Director, Teaching and Learning (North), DET, 22 March 2006.

²⁵⁹ Briefing note from Keith Newton, Executive Director, Teacher and Learning North, DET, to Paul Albert Director General, DET, 'Financial Management Issues with Balga Works Program Education Component Update', 20 June 2006.

from Gerry Borger, noting that Mr Michael Carton did not have enough money to pay his staff.²⁶⁰

- 3.157 In mid 2006 the DET began to work with the Office of the Minister for Education and Training to find a solution to the funding issues:

*In May 2006 the minister's office was made aware that a number of employees of the Balga Works program had not received pay for some time. The minister's office took immediate action, which resulted in some 22 employees and former employees receiving outstanding payments.*²⁶¹

- 3.158 Mr McCaffrey advised the Committee that this issue was discussed at his meeting with Mr Hammond, Mr Michael Carton and Mr Taylor in June 2006 (see paragraph 3.125) and at that time the BSHS had sufficient funds in the bank to pay outstanding wages and that this should be paid if they were entitled to be:

Mr McCaffrey: *The money would have gone straight into the school funds. I mentioned earlier, part of the advice that I gave Mr Hammond and Mr Carton - and I think Gary Taylor was there, which would have been about that time - was that they had sufficient funds in their bank, and if these people were legitimately employed by persons in the name of the school and they are entitled to be paid, they should pay them. I gave them a commitment that we would then look at the school and have a look at how that impacted on the operations of the school - not just the program but the school - and that if additional funding was required to make sure that those operations continued effectively, then that would be a decision taken when it was investigated, and that is when I think it was around about September that that was determined, and that was when I referred to, last time I was here, about the \$400 000, I think it was, that went out to the school in September, but there was no money given to say, "I am giving it to you to pay those salaries." I was not aware of that, but it was certainly my opinion, and I gave that advice, that if it was due to be paid and these people had lives and commitments, they were entitled to be paid.*

....

²⁶⁰ Letter from Gerry Borger, District Finance and Administration Officer, Swan Education District, DET, 8 April 2008, Attachment, Email from Gerry Borger, District Finance and Administration Officer, Swan Education District, DET to John Garnaut, District Director, Swan Education District, 9 December 2005.

²⁶¹ Briefing note from Keith Newton, Executive Director, Teacher and Learning North, DET, to Paul Albert Director General, DET, 'Financial Management Issues with Balga Works Program Education Component Update', 20 June 2006 and Western Australia, Legislative Assembly, Parliamentary Debates (*Hansard*), Tuesday, 28 November 2006, p8852.

Mr McCaffrey: *Well, I was at that discussion with Mr Hammond and Mr Hurson [sic], and when we were talking about the outstanding invoices - because the issue from Hurson's, as I understood it, was that they had provided the service, they had provided the invoices to the school, the school was saying, "We don't have enough money to pay you", because the money that they were expecting from other sources had not materialised. My comment was, "You have got money in the bank. You really should pay them", but I asked Hurson's specifically to ensure that when those invoices were paid, priority would be given to the people to get a salary payment because they had commitments. When I left that meeting, I understood that that was what he was going to do.*²⁶²

- 3.159 Mr Garnaut advised the Committee that advice was sought through the Investigation Reference Group and the DET legal division regarding the DET obligation to pay the unpaid wages as Hurson was a contractor to the BSHS:

*As a contractor, Hurson's had responsibility for its salary responsibilities, so we sought advice on whether the department had responsibility or the school had responsibility for any shortfalls in salary payments to those particular people. The advice we had was that there was a moral obligation to pay the salaries of those people - the 22 that you refer to - and so, as a result of that, a process was put in place through the district finance and administration officer, the principal of the school, Gary Taylor and Hurson's to verify the claims of those people. Moneys were then forwarded to the school for the school to make those salary payments.*²⁶³

- 3.160 Claims were only considered from the school-based component of the program, for which the DET had responsibility. The DET concluded that they had no obligation to meet the salary shortfalls of people involved in the accommodation component of the program, for which Hurson's had full responsibility.²⁶⁴
- 3.161 In August and September 2006 the BSHS negotiated with individual Hurson employees who claimed they were owed salary payments from Hurson, and when agreement was reached, payments were made from the BSHS funds to Hurson who then paid the individuals concerned.²⁶⁵

²⁶² Peter McCaffrey, Deputy Director General, Finance and Administration, DET, *Transcript of Evidence*, 15 October 2007, pp13-14.

²⁶³ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p35.

²⁶⁴ Ibid, p37.

²⁶⁵ Letter from John Garnaut, District Director, Swan Education District, DET, 25 October 2007, p3.

- 3.162 Mr Garnaut advised the Committee that Mr Taylor was asked to implement immediate sample checks of staff to ensure that salary payments were made and that Mr Taylor reported to him that this had occurred, and all salaries had been paid as required.²⁶⁶
- 3.163 The payment of the wages of Hurson employees in this manner has been referred to by many witnesses before the Committee as the DET 'rescue package'. The Committee notes that these payments provided to BSHS in June (see paragraph 3.124) enabled BSHS to meet its financial obligations which included the payment of Hurson invoices for employee salaries.
- 3.164 The DET advised however, that a rescue package in a funding sense was never made. No additional funding was provided, just payment of invoices to meet the schools obligations. The DET verified the invoices provided by Hurson which involved consultation with unpaid staff. Once verified the DET ensured that funding was available to the school to meet its commitments to Hurson. Mr McCaffery advised the Committee:

***Mr McCaffrey:** Again, the only payments that went out to the school - what I call as an operational adjustment, which encompasses everything - were on 13 September '06 and 9 November '06. I know that there were discussions about helping these people get paid, but a rescue package as such in a funding sense, from my understanding and our records, no extra money was given out.*²⁶⁷

- 3.165 Mr Newton advised that:

***Mr Newton:** The minister's office certainly received some complaints from people about not being paid. They then referred that to us saying that there is a Balga Works program and that these people are saying that they have worked for it but have not been paid. They certainly asked us to resolve that, but not in terms of making payments directly to the people other than to pass it on because it was an operational matter which we dealt with in terms of that we had an obligation to pay Hurson's for services provided and we then reminded Hurson's that they had an obligation to pay their employees. Now whether Hurson's did or not was always going to be problematic, but I believe they did pay.*²⁶⁸

²⁶⁶ Supplementary Information provided by John Garnaut, District Director, Swan Education District, DET, 25 October 2007, p3.

²⁶⁷ Peter McCaffrey, Deputy Director General, Finance and Administration, DET, *Transcript of Evidence*, 15 October 2007, p14.

²⁶⁸ Keith Newton, A/Deputy Director Schools, DET, *Transcript of Evidence*, 19 October 2007, p27.

Committee comment

- 3.166 The Committee notes that the DET whilst aware of the problems were referring all complaints to Mr Hammond to resolve. The Committee is of the opinion that the DET was avoiding taking responsibility for this problem and did nothing to assist the complainants prior to June 2006.
- 3.167 The DET did not follow up on complaints to ensure that they had been resolved.
- 3.168 The Committee is of the opinion that the DET position that the bringing forward of funding for the BSHS was not a rescue package is misleading. This funding was provided to enable financial obligations to be met, which included those to cover the wages of Hurson employees.
- 3.169 The Committee queries why the DET were not questioning the suitability of Mr Michael Carton to run the program throughout this period.
- 3.170 The advice provided to the Minister at paragraph 3.154 was not a correct portrayal of the situation.

Enrolment numbers vs student attendance

- 3.171 The Committee received evidence from a number of witnesses that the number of students attending the BWP each day was well below enrolment numbers in both 2005 and 2006. As stated by Mr Taylor:

The CHAIRPERSON: How many students were enrolled in the Balga Works program?

Mr Taylor: That is a - okay. There were 150 kids, or thereabouts, enrolled in the program. We spent a great deal of time trying to classify or categorise those kids in any commonsense way for funding purposes from the department, and essentially we got down to which were the full-time kids - those that attended 80 per cent or more, which you would expect a full-time kid to be attending; which were the kids that were attending sort of 50 per cent or less; and which were the kids that were really very occasional attenders. Then there were some who were simply receiving some home contact - a phone call or a visit from one of the assistants within the program. So out of 150 kids, there were probably about 40 kids who were deemed to be full-time attenders, and the rest were broken down between part-time and half-time attenders, seldom attenders and never attenders, even though they were on the books.

Hon PETER COLLIER: *On an average day, how many students would attend?*

Mr Taylor: *Towards the end of 2005, in its heyday, there would have been up to 40 on any given day, for a significant amount of time. For most of that term, there would have been between 30 and 40 kids a day, sometimes more than 40, sometimes less, but sort of between 30 and 40.*

Hon PETER COLLIER: *What about 2006?*

Mr Taylor: *It dropped. It started fairly well and then it dropped off, probably to about 30, 25 towards the end of semester 1, down to probably 25 or so.²⁶⁹*

And:

Hon PETER COLLIER: *How many students would be with you during the day? How many were engaged in the program?*

Witness G: *I am not actually sure. Probably about 20.*

Witness H: *Were you all together?*

Witness G: *No, I suppose we were all spread out. Usually there would be, like, five, six or seven people to a class, I suppose.*

Hon PETER COLLIER: *And how many classes would there have been?*

Witness G: *Probably about three or four.*

Hon PETER COLLIER: *That is about 20 in total.*

Witness G: *Yes.²⁷⁰*

And:

Hon PETER COLLIER: *How many students would be there? We were led to believe that there were 200 enrolments.*

²⁶⁹ Gary Taylor, Deputy Principal, BSHS, *Transcript of Evidence*, 1 November 2007, p9.

²⁷⁰ Private Transcript of Evidence, 11 September 2007, pp2-3.

Witness D: *The most we ever had that I could ever remember at one time in one day - it would never have been the whole day - would have been 20; 25 to 30 max.*²⁷¹

3.172 On why there was such a small number attending the BWP Mr Michael Carton advised the Committee that:

Mr Carton: *There were a number of young people that were transient with their families, that were incarcerated, and while incarcerated they were not in attendance; or they had breached their bail conditions and were not attending the program. They were having difficulty with personal issues. There were young people attending counselling courses, doing external attendance activities; young people that were just not accounted for because of the nature of the young people being dealt with.*²⁷²

3.173 Mr Garnaut advised that he did not doubt the enrolment or attendance numbers:

Hon SHEILA MILLS: *Mr Garnaut, just to follow on from Mr Collier's question, you said that one of the reasons you could not do it was that there were 150 students enrolled in the program. All the evidence that has come before this committee so far is that there were never any more than between 20 and 40 students in that program.*

Mr Garnaut: *We did very thorough audits of enrolment in 2006. I recall that one of the early audits in 2006 concluded that there was the equivalent of 100 full-time equivalent students engaged in the program - I think it was 90 something; not quite 100 - which made up 150, 160, approximately, students, some of whom were part-time, some of whom were full-time, but equating to almost 100 full-time students in the Balga Works program. So, that evidence that I have there is in conflict with the evidence that you have been informed of - that there may have been 30 or 40 students in the program. In fact, I can provide the audit report on that attendance for you, if you would like to see a copy of that.*

...

Hon KEN TRAVERS: *Did you ever have any doubts about the number of students that were claimed to be enrolled in the program and were actually enrolled in the program?*

²⁷¹ Private Transcript of Evidence, 11 September 2007, pp10-11.

²⁷² Michael Carton, *Transcript of Evidence*, 22 October 2007, p26.

Mr Garnaut: *No. I had no doubts about the number of students who were enrolled in the program. One of the processes was that the school would submit its enrolments to my manager operations. My manager operations then would work with the human resources people on the conversion of the FTE to the salary pool, and I trusted that the information coming from the principal of the school was accurate information. That is highly unusual. I have never, ever come across a situation in my time as a director where incorrect enrolment information has come through from a principal of a school.*

Hon KEN TRAVERS: *Do you think there was on this occasion, though, or do you think the enrolment figures were accurate?*

Mr Garnaut: *When I called for that audit report in early 2006, or the review report of the enrolment and attendance processes, I was very disappointed with the controls that were obviously not in place at the school - what you would assume to be normal controls for monitoring attendance at the school. Normal controls at Balga Senior High School were that one deputy principal had responsibility for attendance across the whole school. Another control would be a second deputy principal who oversees the Balga Works program. My expectation would be that both of those two would have a clear picture of any enrolment or attendance concerns that would be apparent at the school at the time. Our review report in early 2006 indicated that those controls were not in place - that the principal had not ensured that attendance controls were sufficiently established. So, the deputy, who for all-of-school purposes has responsibility for attendance, was not playing a role in monitoring attendance at the Balga Works program. My understanding was that the deputy principal with responsibility for the Balga Works program was not playing a role in monitoring attendance either.²⁷³*

- 3.174 Mr Garnaut further advised the Committee that a December 2005 progress report by the school stated “*there are currently 35 participants attending 100 per cent, a further 60 whose attendance is at between 90 per cent and 60 per cent, 25 students show an attendance rate of 50 per cent, whilst the remainder are currently attending at less than 50 per cent*”.²⁷⁴

²⁷³ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p6 and pp8-9.

²⁷⁴ Supplementary Information provided by John Garnaut, District Director, Swan Education District, DET, 25 October 2007, p4.

DET audit on attendance

3.175 The Committee was advised that special concessions were granted in relation to the attendance at the BWP due to the nature of the students participating. An attendance rate per student of 70 percent was considered full time participation for the education component of the program.

3.176 The DET did not conduct any audits on attendance in 2005, however, it did so in 2006. In Terms 1, 2 and 3, 2006 the Swan Education District Office conducted audits of attendance in the BWP. Site visits were made during Term 1 by the Swan Education District Office, Manager of Corporate Services and the Manager Operations to verify the authenticity of the attendance rolls. The rolls were then sent through the school administration to the District Office. Summaries were made of this attendance information and sent to the DET Director of Staffing.²⁷⁵ These audits showed that the attendance rate for students in the BWP during this period ranged from 19 percent to 46 percent.²⁷⁶

3.177 Mr Garnaut advised:

*In 2006 a process of sample spot checks on attendance was implemented by district Manager Corporate Services and Manager Operations. The (random) attendance audit for term one indicated that over a three-week period average attendance was 96. Average attendance rates declined as the year progressed.*²⁷⁷

3.178 The recommendation resulting from the audit undertaken in Term 1, 2006 was that the program continue to be staffed at the current rate.²⁷⁸

3.179 An investigation into the attendance and enrolment record of students at the BSHS was conducted in early 2007. This investigation identified concerns about the enrolment and attendance process at the BSHS for the BWP, including:²⁷⁹

- Enrolment processes for the programs at BSHS other than the BWP complied with DET policy.
- Mr Hammond did not assure a process to oversee the enrolment procedure, which was conducted by an employee of Hurson.

²⁷⁵ Fifth Submission from the DET, September 2007, p4.

²⁷⁶ *Investigation into the enrolment and attendance processes of the former Balga Works Program at Balga Senior High School*, 11 May 2007, p5.

²⁷⁷ Supplementary Information provided by John Garnaut, District Director, Swan Education District, DET 25 October 2007, p5.

²⁷⁸ Fifth Submission from the DET, September 2007, Attachment G, Appendix 2A.

²⁷⁹ Ibid, p3.

- Enrolment records of students in the BWP were correct on input however, exit processes were less regular as some students were very irregular attendees, often gaining enrolment, but then attending for only a few days.
- Many of these seemingly remained on the enrolment record of the BSHS as no further information was provided about attendance at other schools.
- The recording of attendance of students enrolled in the BWP was not performed in accordance with the DET Attendance Policy.
- The policy directs secondary schools to record attendance period by period, This was not done.
- Students enrolled in the BWP registered 100 percent attendance in the School Information System (SIS) database, the electronic information system at the school.
- The 100 percent attendance for the BWP students resulted because SIS registers a student as present by default and it is only by manually entering an absence for a student that the default is changed.

3.180 Whilst BWP students were enrolled as students of BSHS, the recording of attendance of students in the BWP was the responsibility of Hurson. Attendance of students in the BWP was recorded for the morning and afternoon sessions and entered into a database held by Hurson that was not part of the BSHS SIS database.²⁸⁰ The SIS database was not being updated by Hurson.

3.181 The Audit report noted that students enrolled in the BWP registered 100 percent attendance in the SIS database, as this is the default of the system (it is only by manually entering an absence for a student that the default is changed). Mr Taylor did not consider it part of his responsibility to ensure attendance records were entered into SIS, as he considered the official attendance record was being kept by Hurson. The rolls that were provided to the Swan District Office by the school for audit were considered as such.²⁸¹

3.182 The audit report noted that during Terms 1-3, 2006 while the Swan District Office was monitoring attendance, the rolls provided by Hurson, through the administration of BSHS were an accurate reflection of the attendance of students in the BWP.²⁸²

²⁸⁰ Ibid, p3.

²⁸¹ *Investigation into the enrolment and attendance processes of the former Balga Works Program at Balga Senior High School*, 11 May 2007, p6.

²⁸² Ibid, p6.

3.183 The concerns identified by the investigation in relation to enrolment and attendance processes at the BSHS and in particular with the BWP have been addressed by the BSHS which is now compliant with DET policies.²⁸³

Committee comment

3.184 The Committee notes that:

- a) there was discrepancy between enrolment numbers and attendance records;
- b) Hurson was controlling the attendance records, not the BSHS;
- c) in 2005 there was no verification undertaken of student attendance in the BWP. SIS records were showing 100 percent attendance due to a default position in the computer program (refer to paragraph 3.179, dot points seven and eight and paragraph 3.181);
- d) the funding to the BWP was based on enrolment numbers and attendance by the students; and
- e) In 2006 the DET failed to ensure adequate verification of the enrolment and attendance records for the program. The DET continued to rely on the enrolment and attendance records provided by BSHS despite the number of previous concerns about the management and finances at the school.

3.185 Due to the discrepancies in the enrolment and attendance figures, the Committee does not have confidence in the accuracy of the enrolment numbers on which funding was based.

FINDING

Finding 1: The Committee finds that that the DET failed to ensure adequate verification of the enrolment and attendance records and this was a failure in their financial management practices.

DET VIEW THAT THE PRINCIPAL WAS RESPONSIBLE FOR THE FAILURE OF THE BWP

3.186 The DET's view is that the responsibility for the program lay with the Principal, Mr Hammond as it was a school-based program. It was Mr Hammond's responsibility to ensure that that educational delivery was sound and was appropriately delivered within the school.²⁸⁴

²⁸³ Fifth Submission from the DET, September 2007, Attachment G, Note from John Garnaut, District Director to Margaret Collins, Executive Director, Teacher and Learning (North), undated.

²⁸⁴ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p16.

3.187 The DET believe the failure of the program lay with Mr Hammond:

The CHAIRPERSON: Given that that sounds like quite a sound system, what went wrong in this case?

Mr Garnaut: My belief is that the principal of the school did a significant amount of work in 2004 with a range of other people to plan and implement a very exciting program for high-need children in Western Australia. I believe that he expended significant amounts of money in 2004 to set up that program. I understand this in hindsight. I did not understand that until November 2005. I believe that he was very highly motivated to implement that program irrespective of any advice provided.²⁸⁵

3.188 A principal retains a duty of care for all enrolled students, whether they are attending the regular school program on site, or an off-site alternative program. A principal cannot delegate the duty of care to another organisation for a student enrolled at school. Although staff of alternative education programs have a duty of care under common law, this does not abrogate the duty of care owed by the school at which the student is enrolled.²⁸⁶

Adequate checks and balances in place?

3.189 The Committee inquired with the DET what mechanisms exist to address principals' poor performance. The DET advised that there is "a substandard performance process" in place. The performance management process identifies a principal who is performing in a substandard way and then processes are put in place to address that, including a support plan, a time period for the principal to improve their performance, and then, if there is no improvement, a report to the director general recommending that the procedure for substandard performance be implemented.

3.190 Mr Garnaut advised the Committee that he had discussions with his executive director on the substandard performance process, about moving to performance assessment or substandard performance processes in late 2004 in relation to Mr Hammond:

The decision that was taken as a result of that discussion was that we would seek the resources to put additional support into Merv Hammond rather than go down the substandard performance line. One of the reasons for that was that Merv had indicated that he was about to retire, and, also being principal of the year and having a very high profile, the decision was taken that rather than go down the line of substandard performance that the school would be shored up

²⁸⁵ Ibid, pp15-16.

²⁸⁶ DET, *Alternative Education Program*, 1 January 2003,

with additional resource - the Gary Taylor resource - to support Merv's move to retirement. The most important agenda for me as director was school sustainability. Merv Hammond had led Balga Senior High School to be a very important school - as I have stated previously - in the government school system. One of his strengths certainly was not building middle-level leadership and management across the school; it was quite weak. Thus I put Gary Taylor in there and my intention was to have Gary Taylor - not necessarily him; whoever had won that position - to shore up middle-level management and leadership and accountability processes to ensure that when Merv retired, which he flagged would be fairly soon, the school would be in strong shape for another principal to come in and take over. Merv managed in a way where he was very central to the leadership and management of the school, and his delegation skills were not a strength either. As a result, the major agenda for Balga Senior High School for me as director was to build school sustainability so that it did not fall over when Merv Hammond retired.

²⁸⁷

...

- 3.191 The DET chose to provide Mr Hammond with additional support rather than pursue the substandard performance process. However, this strategy did not work and the issues with Mr Hammond's performance continued and compounded. In late 2006 implementing a substandard performance was considered but was overtaken by a recommendation to the Director General that Mr Hammond be removed from the school.²⁸⁸

²⁸⁷ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, pp20-22.

²⁸⁸ Ibid.

FINDINGS**Finding 2:**

The Committee finds that the responsibility for the failures with the program and the administration of the school lay primarily with Mr Hammond.

The Committee is of the view that the DET is also responsible for the failures for the following reasons:

- i) its complicity in providing funding for the BWP in an ad-hoc manner and without proper planning, accountability mechanisms or due diligence;**
- ii) its ineffectiveness in responding in an appropriate and timely manner despite overwhelming evidence of the issues being faced by the BSHS and the BWP throughout the life of the program. In particular, the response of the Investigation Reference Group at the end of 2005 was inadequate (see paragraphs 3.55 to 3.103); and**
- iii) its ineffectiveness in managing Mr Hammond.**

The Committee has concerns with the process for the appointment of a supplementary deputy principal to provide additional support for the BSHS. The Committee believes that the DET should have taken greater responsibility for this appointment rather than leaving Mr Hammond to Chair the selection process.

The Committee finds that the DET responses to the BWP issues were inadequate and the additional support provided did not resolve the problems. The DET should have ensured that the issues faced by the BSHS were being addressed as a result of the additional resources being provided.

Further, the Committee finds that the Minister for Education and Training was not fully informed through the briefing notes provided in relation to the BWP (see paragraph 3.154).

DUTY OF CARE OF THE DET

3.192 The Committee considered the question: as the DET was contributing to the funding of the education component of the BWP, did the DET have a duty of care in relation to ensuring the education component was being delivered in a satisfactory manner?

3.193 The Committee notes that at law the DET owes a duty of care to all of the students enrolled, and staff working, at a Government School.

3.194 The use of a private provider at a school does not alter this situation. Such a duty is described at law as being “non-delegable” in that, while the service delivery may be “contracted-out”, the fundamental duty cannot be passed along to another entity.²⁸⁹

3.195 As noted above, and stated in the DET publication entitled *Alternative Education Programs*:

*The principal retains duty of care for all enrolled students, whether they are attending the regular school program on site, or an off-site alternative program. A principal cannot delegate duty of care to another organisation for a student enrolled at school. Although staff of alternative education programs have a duty of care under common law, this does not abrogate the duty of care owed by the school at which the student is enrolled.*²⁹⁰

3.196 With respect to the duty of care towards staff in terms of occupational health and safety, there is an established body of law which demonstrates that a principle contracting party has a similar non-delegable duty towards sub-contractors and their staff.²⁹¹ This is especially so where the service delivery takes place on the principle contractor’s premises.²⁹²

3.197 DET’s duty of care is of significant relevance when considered in the light of the following facts that have been established by the Committee over the course of this inquiry:

- a) The failure of the DET to adequately supervise the activities of Mr Hammond;
- b) The failure of the DET to independently verify the background and credentials of either MITS, Hurson or Mr Michael Carton;²⁹³
- c) The failure of the DET to act in a timely manner on the questions raised in repeated audits of the BSHS and the BWP commissioned by the DET;
- d) The failure of the DET to act on the issues raised in investigation and audit reports of the BWP and the BSHS, including for example, the failure of the

²⁸⁹ *New South Wales v Lepore; Samin v Queensland; Rich v Queensland* (2003) 195 ALR 412.

²⁹⁰ Government of Western Australia, DET, *Alternative Education Program*, Effective 1 January 2003, p4.

²⁹¹ *Commonwealth v Introvigne* (1982) 150 CLR 258; *Kondis v State Transport Authority* (1984) 154 CLR 672 at 685

²⁹² Note that the provision of a workplace was a key factor in the decision in 2.5 *McFarlane v Western Australia* [2004] WADC 245 and provides an important distinguishing feature when compared with the BWP.

²⁹³ For example, Carton’s bankruptcy details were entered on the National Personal Insolvency Index on 30 September 2003. He also pleaded guilty in a Victorian Court to defrauding the Commonwealth of \$140,000 in 1999.

DET to address the improper use by Mr Michael Carton of Australian Company Numbers or ABNs on invoices and company documents (see paragraphs 3.64 and 3.69);

- e) The failure to address occupational health and safety issues and concerns at BSHS resulting from the behaviour of the students attending the BWP; and
- f) The evidence of Mr Garnaut to the Committee that DET had been advised that it had a moral obligation to pay the salaries of people who had worked for the BWP.²⁹⁴

3.198 Given the above facts, the Committee has concerns as to whether the DET has satisfied its general duty of care obligations with respect to persons adversely affected by the BWP.

Recommendation 4: The Committee recommends that the Minister for Education and Training advise the Legislative Council as to whether he is satisfied that the Department of Education and Training has met its duty of care obligations towards those persons adversely affected by the Balga Works Program.

²⁹⁴ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p35 and p37.

CHAPTER 4

THE ACCOMMODATION COMPONENT OF THE BALGA WORKS PROGRAM

- 4.1 The second component of the BWP was the provision of accommodation for some of the students enrolled in the BWP. The aim of the accommodation component of the program was to:²⁹⁵
- provide a caring, safe and supportive environment where students can learn to live in an adult world;
 - develop within the students, the concept of family and community; and
 - encourage the students to become independent and productive community members.
- 4.2 The accommodation component included 24 hour care and supervision by carers, who lived on site and provided care outside of school hours. Transport to and from school was also provided.
- 4.3 All young people staying at the accommodation, if not working, were required to be enrolled in and actively participate in the education program based at BSHS.²⁹⁶

ESTABLISHMENT OF THE ACCOMMODATION COMPONENT

- 4.4 The accommodation part of the BWP was established by Mr Michael Carton²⁹⁷, independent of MITS or Hurson.²⁹⁸ The accommodation component was not included in the original MITS/BSHS proposal.
- 4.5 It is unclear exactly when the accommodation component of the program commenced. Mr Michael Carton advised the Committee that the “*residential component started in October 2004 or November at the very latest*”.²⁹⁹ He then later advised that the “*formalised residential [sic] commenced in or about the January of 2005*”.³⁰⁰ When asked a third time Mr Michael Carton stated:

²⁹⁵ Balga Works Accommodation Services - Carer's Guide.

²⁹⁶ Ibid.

²⁹⁷ Mervyn Hammond, Former Principal, BSHS, *Transcript of Evidence*, 7 November 2007, pp13.

²⁹⁸ Michael Carton, *Transcript of Evidence*, 22 October 2007, p15.

²⁹⁹ Ibid, p2.

³⁰⁰ Michael Carton, *Transcript of Evidence*, 22 October 2007, p3.

The CHAIRPERSON: *Could you please indicate when the accommodation component of the program began? You might have mentioned it, but I just wanted to get that clear.*

Mr Carton: *In its infancy it commenced in the January of 2005. The first time a house with all rooms rented occurred would have been the April of 2005. That is when the first staff member was employed to work in the houses as a residential carer. Until then, individual rooms were rented for the youth to stay in rather than stay on the streets.*

The CHAIRPERSON: *Could you indicate to the committee who was looking after those students at the beginning, then?*

Mr Carton: *In the initial stages they were renting rooms under their - I cannot recall the term - they were getting rent assistance and they were just renting a room in the resident student complexes run by Brooke Stone accommodation services. They just rented a room.³⁰¹*

4.6 Mrs Flaherty, Director, Brooke Stone Holdings Pty Ltd, submitted:

August 2004 - Michael Carton & I spoke about the possibility of housing young juveniles who were under the age of 18 - who had been involved in petty and more serious crimes but who were willing to try and make a go for themselves under a pilot project to help get these children into jobs and give them a chance to join normal society by improving their self esteem and training. It was acknowledged that these children generally have very little respect for anyone or anyone else's property. The majority just do not care.

In December 2004 we did an initial test run in the house next door to our office. This gave us an insight into what we could expect. ...³⁰²

4.7 It appears that students from the BWP were staying in unsupervised accommodation from as early as December 2004.³⁰³

4.8 The first official residence of the BWP accommodation with supervision was started in approximately February/March 2005, at 8 Alberta Pocket, Joondalup.³⁰⁴ The

³⁰¹ Ibid, p4.

³⁰² Syndicated Development Pty Ltd, Michael Carton - Advice to REBA, 31 January 2006, (document tabled by Lesley Flaherty 4 October 2007).

³⁰³ Ibid, p1.

³⁰⁴ No lease was signed on this property.

residence was then relocated to a number of units at Nottinghill Street, Joondalup on 1 July 2005.

- 4.9 When Hurson took over the program in April 2005, they assumed responsibility for the accommodation component. Mr Michael Carton advised the Committee that Hurson involvement in the accommodation was initiated by Mr Hammond.³⁰⁵
- 4.10 The DET advised that they had no involvement in the establishment of the accommodation component. The accommodation component of the program was set up and run independently of the DET. Mr Garnaut advised the Committee that he became aware that Mr Michael Carton was supporting a small number of students in accommodation in Joondalup early in 2005, and these students were attendees of the BWP. Mr Hammond advised Mr Garnaut that Mr Michael Carton was resourcing and supporting the accommodation element of the program.³⁰⁶
- 4.11 Mr Michael Carton advised that there was no forethought or planning for the program:

***Mr Carton:** There were certainly many complaints. Without a doubt, it was a program that - there was no forethought or planning in it and it resulted in a lot of the issues that prevailed with the residents, and many of them rightly so.³⁰⁷*

Committee comment

- 4.12 The Committee was only able to obtain minimal information regarding the events surrounding the establishment of the accommodation component of the BWP.
- 4.13 The Committee notes that the accommodation component was not included in the original MITS/BSHS proposal.
- 4.14 It appears to the Committee that the accommodation component was established by Mr Michael Carton, in an ad-hoc fashion and that it evolved with no formal plan to guide its establishment and operation. The Committee has not received any evidence to suggest that the accommodation component was a planned part of the BWP.

PLACEMENT OF YOUNG PEOPLE BY THE DCD AND THE DOJ

- 4.15 Both the DCD and the Department of Corrective Services formerly the Department of Justice (**DOJ**) placed young people under their care in the accommodation of BWP.

³⁰⁵ Michael Carton, *Transcript of Evidence*, 22 October 2007, p15.

³⁰⁶ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, pp10-11.

³⁰⁷ Michael Carton, *Transcript of Evidence*, 22 October 2007, p5.

- 4.16 The DCD placed 19 young persons in the BWP from May 2005 to October 2006.³⁰⁸
- 4.17 The Supervised Bail unit of the DOJ placed 33 individuals in the BWP between 14 April 2005 and 9 June 2006.³⁰⁹ Placements were also made by the Supervisory Release Board.³¹⁰

Perception of the BWP

- 4.18 The DCD saw the 'wrap-around' service being offered by the BWP, that is the education program during the day and the provision of accommodation, plus the recreational activities, offered a very comprehensive program for a group of young people that had high needs and were previously quite difficult to place.³¹¹ The BWP was seen as a program that was very suitable and that met the needs of the young people.³¹²
- 4.19 The DOJ advised that they were of the view that the program was a wonderful initiative:

*Mr Logan: In all honesty, our drive was to actually release young people from custody who, in our view and according to the legislation, should have been in the community addressing whatever issues they had in their life. The agency was prepared to take them and they were prepared to negotiate how they would finance it. Certainly, at the time, we were quite happy in the sense that we had what we saw and truly believed was a very positive and dynamic opportunity to place not only young people in accommodation, but also in an environment where they would get access to education and support.*³¹³

³⁰⁸ Submission No 18 from Hon Sue Ellery MLC, Minister for Child Protection, 13 August 2007, p2.

³⁰⁹ Letter from Margaret Quirk MLA, Minister for Corrective Services, 5 November 2007, p5.

³¹⁰ Peter Logan, Manager, Supervised Bail and Diversion, Rangeview Remand Centre, *Transcript of Evidence*, 19 October 2007, p5.

³¹¹ Cheryl Barnett, A/Executive Director, Metropolitan Services, Department for Child Protection, *Transcript of Evidence*, 12 November 2007, p10.

³¹² Ibid, pp28-29.

³¹³ Peter Logan, Manager, Supervised Bail and Diversion, Rangeview Remand Centre, *Transcript of Evidence*, 19 October 2007, p19.

BWP perceived as a DET initiative

- 4.20 The DCD advised the Committee that as the BWP was being run out of the BSHS when they began to place young people into the BWP, they were of the understanding that it was a DET-run program.³¹⁴
- 4.21 Ms Cheryl Barnett, A/Executive Director, Metropolitan Services, Department for Child Protection advised the Committee:

***Ms Barnett:** Our understanding was that it was a program being run out of Balga Senior High School in partnership with other providers. Essentially it was a program from Balga Senior High School.*

***Hon HELEN MORTON:** Can you say was there any other part of the Department of Education and Training, either at district level or central office level or whatever, that assisted you to believe that or made anything happen that made you believe that?*

***Ms Barnett:** ... the discussions started happening in 2004; that there was going to be a new program that was being developed at Balga Senior High School and it would commence in 2005. We then had a presentation by Mike Carton, who came to a staff meeting. I have met with the principal, Merv Hammond, and Mike Carton down at the school premises, and we had no reason - oh, and also there was the steering committee that was established, and I attended one meeting of that steering committee. The director from central office attended - I do not know how many previous ones there were because we never got any minutes, and the meeting I attended was in March 2005, and there were not any other meetings beyond that of that steering committee. But that was held down at the Balga Senior High School; it was a breakfast meeting held down there. We had other personnel from the high school. There was Mark Carton, who is actually the principal of the Balga Youth program. Yes, it was - we had no reason to believe other than it was another program developed at Balga Senior High School.³¹⁵*

And further:

***Hon PETER COLLIER:** Just with regard to the delivery of the accommodation component, if I can just pick up on something Ken was saying. I know you have covered this - I think, Ms Barnett, you*

³¹⁴ Cheryl Barnett, A/Executive Director, Metropolitan Services, Department for Child Protection, *Transcript of Evidence*, 12 November 2007, p2.

³¹⁵ Ibid, p3.

gave us a coverage of this. With regard to who was actually providing the accommodation, you were always of the impression that it was the Balga Parents & Citizens Association; is that correct?

Ms Barnett: *No, we were always of the - that it was linked in with the Balga high school.*

Hon PETER COLLIER: *Yes, but -*

Ms Barnett: *Because we were told initially that all of the employees of the accommodation were employees of the education department.*

Hon PETER COLLIER: *You were told that, were you?*

Ms Barnett: *We were.*

Hon PETER COLLIER: *So as far as the department was concerned, due diligence on all the employees -*

Ms Barnett: *That is right.*

Hon PETER COLLIER: *- was done by the department?*

Ms Barnett: *That is right.*

Hon PETER COLLIER: *It was not done by a private provider?*

Ms Barnett: *That is right.*³¹⁶

4.22 Similarly, the Committee was advised that it was understood by the DOJ that the BWP was initiated by the Principal of BSHS and provision of the BWP was a component of the overall education program.³¹⁷

4.23 Meetings held with the DOJ representatives, Mr Michael Carton, Mr Hammond and DET representatives led to the inference that the BWP was a project of the BSHS.³¹⁸ For example, Mr Logan, Manager, Supervised Bail and Diversion, Rangeview Remand Centre, advised the Committee:

Mr Logan: *Certainly I had been privy to meetings with Merv Hammond, Michael Carton and other Balga Works staff at the Balga high school. I had also attended a meeting with the then Director of*

³¹⁶ Ibid, pp23-24.

³¹⁷ Letter from Margaret Quirk MLA, Minister for Corrective Services, undated, Ref: 07019(2).

³¹⁸ Peter Logan, Manager, Supervised Bail and Diversion, Rangeview Remand Centre, *Transcript of Evidence*, 19 October 2007, p2.

*Juvenile Custodial Services, Jane Sampson and at that meeting was Merv Hammond, Michael Carton and a number of representatives from the local district office of the education department, who were introducing and discussing the project and where it was going, and actually seeking or requesting or exploring whether Juvenile Custodial Services would possibly want to put some finances into the program, which was declined.*³¹⁹

- 4.24 The Committee understands that the meeting Mr Logan was referring to was the Swan Works Project Summit meeting held on 23 May 2005 in which representatives of DOJ, Centrelink, Gundi Corporation, Swan Tafe, BSHS and the Swan District Education Office attended. At this meeting Mr Garnaut spoke of the Swan Works Program and it was noted that BWP “was moving towards a comprehensive and sustainable ‘whole of life’ model termed Swan Works”. Mr Hammond and Mr Michael Carton spoke on the BWP.³²⁰
- 4.25 With regards to Mr Michael Carton’s involvement in the BWP, the DCD advised that they understood that the whole program was being run out of BSHS in partnership with other providers and the accommodation aspect was being provided by MITS represented by Mr Michael Carton.³²¹
- 4.26 Mr Logan advised the Committee that the understanding of Banksia Hill Detention Centre and Rangeview Remand Centre with regard to Mr Michael Carton was that he was part of BSHS, and Balga Works was a project of BSHS, utilising the incorporation of the P & C.³²² Mr Logan advised:

Mr Logan: *I would suggest that there would be reference to that in the policy and procedures document. Certainly, the other evidence is that for us to actually place a young person in a Balga Works program we had to actually write a referral for the Balga Senior High School, and that was part of that process. That is outlined in those documents. That would be the evidence that we would have. There was a degree, possibly, of inference there as well, and assumptions may have been made based on the fact that Merv Hammond was involved. I mean, personally I had had many dealings with that particular individual over a number of years in my various roles that I have taken working both for corrective services and as a community-based manager of various youth services. We had worked*

³¹⁹ Ibid, p2.

³²⁰ Swan Education District Swan Works Project - Summit, Minutes of Meeting, Monday, 23 May 2005.

³²¹ Cheryl Barnett, A/Executive Director, Metropolitan Services, Department for Child Protection, *Transcript of Evidence*, 12 November 2007, p3 and p19.

³²² Peter Logan, Manager, Supervised Bail and Diversion, Rangeview Remand Centre, *Transcript of Evidence*, 19 October 2007, p2.

on various activities and various programs previous to that, and certainly my understanding was that he was a representative of the education department, and certainly that was in his capacity as principal of Balga Senior High School, and certainly there were other deputy principals and what have you that were also on board and that I had discussed this program with at that high school that were clearly employees of the education department.

Hon KEN TRAVERS: *Is it fair to say that if someone of Merv Hammond's stature rang up and said, "We are running this program out of the school, and I want to send someone over from the program called Michael Carton to talk to you guys about how we can deal with some of your clients", that would be taken at face value, and then when that person turned up, someone would say, "Show me your ID", and you would accept that person as representing the department?*

Mr Logan: *Yes, that would be fair, and that is not an uncommon scenario, not just in terms of this case, but quite regularly we will have juvenile justice officers or child protection officers contact us and say they are sending this individual to do an assessment or to develop a care plan with regard to a young person who is currently in our care. That would be a weekly, if not a daily, occurrence.*

Hon HELEN MORTON: *Other than Merv Hammond giving some credibility to the status of Michael Carton, were there any other Department of Education and Training people at a regional office or any other place that in some way indicated to you that this was bona fide, that it was okay to go along with it, or whatever?*

Mr Logan: *Certainly, the impression given at the luncheon that was held in 2005, there were a number of people from the Department of Education and Training and the education department and the inference was that this was an education program and there was a degree of - a commitment to work with disadvantaged young people and that the Balga Works program was one of several programs running through the Balga high school that identified and worked with at-risk young people.*

Hon HELEN MORTON: *This luncheon, just remind me again: have you already mentioned their lunch?*

Mr Logan: *I have, yes.*

Hon HELEN MORTON: *And that was at the Belmont -*

*Mr Logan: At the Belmont Hotel. And further to that, certainly on the number of occasions when I attended the Balga Works program at Balga high school, the process of actually gaining access to the program was to go in through the front office of Balga high school, and, for all intents and purposes, it was one of the two or three programs that were running from that school at that time.*³²³

- 4.27 The Committee wrote to the Minister for Corrective Services and asked what background checks were undertaken on Mr Michael Carton and was advised as follows:

Mr Carton represented Balga Senior High School and an Education Department Initiative.

Like any new employee within the Public Service, police checks had to be completed by the Department employing that person prior to them commencing within their position. In light of the fact that the Education Department in the form of Balga Senior High School, indicated to the Department of Corrective Services that Mr Michael Carton was a staff member, it was taken that he had already been subjected to the appropriate checks by that Department.

*As such all that was required from Mr Carton when he attended the Centre was to provide appropriate photo ID as per the normal entry/exit processes.*³²⁴

Committee comment

- 4.28 The Committee believes that the BWP and Mr Michael Carton were given credibility through its association with BSHS. Both the DCD and the DOJ were under the impression that the accommodation component of the BWP was an education department initiative. This perception was based on, amongst other things, the fact that Mr Hammond was accompanying Mr Michael Carton to meetings, that meetings were held at BSHS, and that meetings were attended by Swan Education District Office and other agency staff.
- 4.29 The Committee notes that no independent background checks were undertaken on Mr Michael Carton or Hurson as the accommodation service providers by either the DOJ or the DCD. Further that the DCD and the DOJ did not establish the *bona fides* of the BWP. The Committee understands that these checks were not undertaken as both the

³²³ Ibid, pp6-7.

³²⁴ Letter from Simon Ward, Chief of Staff, Office of the Minister for Corrective Services, 3 October 2007, p2.

DOJ and the DCD were of the view that the accommodation component was established by DET.

DCD Service Agreements

4.30 The DCD advised in their submission that each placement in the Balga Works accommodation required an individual contract for service (**Service Agreement**). The Service Agreement included:³²⁵

- the services required to meet the young person's case plan;
- the standards expected by the DCD regarding, for example, police checks, suitable environment, meals;
- the amount to be paid; and
- the way in which payment would be made.

4.31 The Committee noted that there were 19 young persons placed in the BWP by the DCD. The Committee was advised by the Minister for Child Protection, however, that the DCD has records of only six Service Agreements on file, four of which are signed.³²⁶

4.32 The Committee was advised by Ms Cheryl Barnett that Service Agreements were only entered into for four of the young people due to a breakdown in departmental process. The DCD perception was that the BWP was a DET run program and thus contracts were not required. Contracts are not required by the DCD if young people are placed in an educational facility, and BSHS was considered an educational facility.³²⁷ Ms Barnett explained the process to the Committee:

Hon KEN TRAVERS: *Are you saying that there should have been a service agreement for every student that was placed in Balga Works?*

Ms Barnett: *Yes; at the end of the day, there should have been. However - well, yes, the reality is that at the end of the day there should have been.*

Hon KEN TRAVERS: *So the failure that you are saying there was, a failure in the system, was that there was not a service agreement signed for every student - is that what you are saying? I am not clear*

³²⁵ Submission No 18 from Hon Sue Ellery MLC, Minister for Child Protection, 13 August 2007, p3.

³²⁶ Letter from Hon Sue Ellery MLC, Minister for Child Protection, 24 October 2007, p1.

³²⁷ Cheryl Barnett, A/Executive Director, Metropolitan Services, Department for Child Protection, *Transcript of Evidence*, 12 November 2007, pp1-2.

about what you are saying. You said there was a breakdown. I am just trying to work out what exactly was that breakdown.

***Ms Barnett:** Okay. Perhaps I will just walk you through what the process was. The process first of all is that there has to be - an application has to go up to the executive director for approval for a particular student, a young person going into a program. We call that "special purpose subsidy". Now, 19 of those - for 19 of those students - for 18 of them they were signed off by the executive director, and for one they were signed off by the director. Okay, so, where the miscommunication - a lot of our staff felt that was all they had to do. Now, the second part of the process is that the service agreements are established and signed off. Now, there definitely was a misunderstanding and it went on - it was - initially, I thought, as a district director, initially that is all we had to do, was to get approval for what we call the "special purpose subsidy". We were then informed from central office, no, we had to establish - contracts had to be established, and so there was someone from central office assisting in the establishment of those contracts because a lot of our field staff would never have established a contract as such before, and may not ever again.³²⁸*

- 4.33 The Committee noted that the parties to the Service Agreements were the Minister for Family and Children's Services and the BWP of BSHS. However, the completed agreements were signed by the President of the P & C for the BWP.
- 4.34 The DCD advised the Committee that the Service Agreements were signed by the President of the P & C on behalf of the BWP of BSHS and that the common seal of BWP of BSHS was not affixed to three of the Service Agreements. The DCD was not able to advise the Committee why Service Agreements were established with the P & C.³²⁹ When asked why the common seal of the BWP of BSHS was not affixed to the Service Agreements the DCD responded that questions relating to the use of the common seal of the BWP of BSHS can only be answered by that organisation.³³⁰

DCD contractual processes

- 4.35 The Committee raised their concerns in relation to the DCD's contractual processes with the Department:

³²⁸ Ibid, p5.

³²⁹ Letter from Cheryl Barnett, A/Executive Director, Metropolitan Services, Department for Child Protection, 28 November 2007, Attachment.

³³⁰ Letter from Hon Sue Ellery MLC, Minister for Child Protection, 24 October 2007, pp1-2.

Hon KEN TRAVERS: *Good process was not followed. What, I guess, I am more concerned about now is making sure that the processes into the future are such that this will not happen again. So, I am not asking with the benefit of hindsight - I am trying to make sure that when we go into the future, it will not happen again and that is why I am asking whether or not there are very clear procedures; that is, if this were to occur again, there would be a thorough process to ensure that the documents are signed by the correct people. I have got to say that when I get an answer when we asked the question about who affixed the common seal and why it was not there, "Well, that's a problem for Balga Works and not for the department", that gives me great cause for concern that the department still does not actually realise that if you are entering into a contract, you need to make sure that the other party is formally entered into that contract as well.*

Mr Glew: *Look -*

Hon KEN TRAVERS: *I guess that is why I want to know what the procedures are -*

Mr Glew: *- I perfectly understand what you are saying.*

Hon KEN TRAVERS: *- for that to occur.*

Mr Glew: *Yes. Look, I have just signed off on 180 contracts with the non-government sector. The seal has been on every one of them. We are very familiar with the process. This is one of those things that, as I said, in hindsight that should not have occurred, and we have actually gone and identified a recent management plan, and I am quite optimistic that we will not ever see this in the future.*³³¹

- 4.36 The DCD advised the Committee that mechanisms were currently being put into place to ensure that such errors do not happen again. Strategies were in place to ensure that for every child who was engaged in any fee-for-service arrangement that the proper contractual arrangements were in place.³³² Further, a project officer has been appointed to ensure the following actions are implemented:³³³

³³¹ Stephen Glew, A/Executive Director, Resource Allocation, Department for Child Protection, *Transcript of Evidence*, 12 November 2007, p8.

³³² Cheryl Barnett, A/Executive Director, Metropolitan Services, Department for Child Protection, *Transcript of Evidence*, 12 November 2007, pp6-8.

³³³ Letter from Cheryl Barnett, A/Executive Director, Metropolitan Services, Department for Child Protection, 28 November 2007, Attachment, p1.

- i) Examination and amendment of existing procedures for engaging and contracting with ‘fee for service’ placement service providers. The examination to include referral processes; levels of delegation; capturing of all costs; monitoring of standards; and supporting contracting process.
- ii) Development of a general panel contract, which may encompass mentoring; placement; camps and respite. Other areas may also be examined as part of the development of the general panel contract of approved service providers.
- iii) As an interim risk management strategy, continuing ‘fee for service’ arrangements to only involve agencies which have undergone a due diligence/QA process.

Ensuring the conditions of the Service Agreements were met

- 4.37 It is arguable whether the conditions of the Service Agreements were fully met. A statement of work performed by the BWP as required by the terms of the Service Agreements was not provided by the BWP to the Minister for Child Protection. The Minister for Child Protection did advise, however, that the DCD Case Managers received progress reports and attended meetings in regard to the services provided and outcomes for the children and young people in the service.³³⁴
- 4.38 The DCD did not formally ensure that the requirements listed in the Schedule to the Service Agreements were met, including police clearances for all staff, that relevant policies and procedures were in place and files maintained for each young person. However, the Minister for Child Protection advised the Committee that files were maintained by the Case Managers and that records show intensive support by Case Managers for young people in the BWP, many times recording daily contact. Further, Case Managers worked closely with BWP staff to support the young people and there were frequent visits by the DCD staff to the accommodation.³³⁵
- 4.39 The Minister for Child Protection also advised that the understanding of the DCD, given verbally by Mr Hammond was that all staff working in BWP were employees of the DET and were thus subject to normal police screening.³³⁶

Committee comment

- 4.40 It is of concern to the Committee that the DCD did not ensure that Service Agreements were signed for all 19 young people placed in the BWP by the DCD. Further, it is unclear whether the conditions of the Service Agreements were complied with. However, the Committee notes that the DCD is currently reviewing its

³³⁴ Letter from Hon Sue Ellery MLC, Minister for Child Protection, 24 October 2007, p2.

³³⁵ Ibid.

³³⁶ Ibid, pp2-3.

processes to ensure that the correct contractual procedures are established and followed in the future.

FUNDING FOR THE ACCOMMODATION COMPONENT

- 4.41 The Committee was advised that initially the accommodation was funded by the students rent assistance received through Centrelink. From May 2005, the accommodation component was supported by funding from the DCD together with any Centrelink benefits the students were entitled to.
- 4.42 The DCD submitted that they were advised by Mr Hammond and Mr Michael Carton, at the time of the DCD's placement of the first young person in May 2005, that the training component was funded by the DET and that Centrelink benefits (Abstudy or Youth Allowance) would meet the board and lodging costs for eligible young people.³³⁷
- 4.43 The DCD paid board and lodging costs for those not eligible for Centrelink benefits. This payment, equal to the basic subsidy payment³³⁸, was met from the service delivery subsidy budget. In May 2005 when the DCD first placed a young person in the accommodation, the basic subsidy was \$300 per fortnight for a young person aged between 13 years and 18 years. A clothing allowance of \$400 every four months and pocket money of \$20 per fortnight were also paid through the subsidy system.³³⁹
- 4.44 The DOJ did not provide any funding to the BWP for any purpose at any time.³⁴⁰
- 4.45 The funding arrangement between the DCD and the BWP changed half way through 2006. The DCD submitted that from early 2006 they began to receive complaints from accommodation workers that they were not receiving salaries. As a result, the DCD worked with Mr Michael Carton to determine the actual costs of maintaining a young person in the accommodation.³⁴¹
- 4.46 From July 2006 the DCD agreed to pay the full cost of the accommodation of \$1,448 per week per young person it placed, in recognition of its parental responsibility to ensure stable placement for its young people. For those young people in receipt of Centrelink benefits the weekly rate paid by the DCD was reduced in accordance with the amount received from Centrelink. The DCD advised:

³³⁷ Submission No 18 from Hon Sue Ellery MLC, Minister for Child Protection, 13 August 2007, p3.

³³⁸ Basic Subsidy is the payment made to DCD approved carers as a contribution towards a child's day to day care costs.

³³⁹ Submission No 18 from Hon Sue Ellery MLC, Minister for Child Protection, 13 August 2007, p3.

³⁴⁰ Letter from Margaret Quirk, Minister for Corrective Services, 5 November 2007, p6.

³⁴¹ Submission No 18 from Hon Sue Ellery MLC, Minister for Child Protection, 13 August 2007, pp3-4.

At \$1,448 per week the Balga Works accommodation, with its support, supervisions and recreational services, compared favourably with the cost of similar programs offered by other non-Government agencies. (These costs did not include a component for the education and training day component of the Program which were paid by the Department of Education and Training.)³⁴²

- 4.47 Mr Michael Carton advised the Committee how the accommodation component was funded and noted that in late 2005 the accommodation component was in deficit:

The CHAIRPERSON: *How was the accommodation component of the program funded?*

Mr Carton: *In the beginning, or the end, or do you want the whole story?*

The CHAIRPERSON: *Perhaps you could start at the beginning and explain how it changed.*

Mr Carton: *Okay. Initially, it was funded - the young people would get rent assistance through Centrelink and they were staying in the accommodation provided by Brooke Stone. The issues were manifold and certainly the younger ones were particularly at risk and it was - there was a decision made through the school, through the principal, that it should be a staffed house. That took place in 2004. At that stage, we understood that the funding for the housing was coming from the department of education. I think it was later in that year - it certainly was later in 2005 that we understood there was a deficit. DCD had approached the program with the intent of establishing how they could provide residential funding. Additionally, the young people were paid an ABSTUDY payment and that boarding allowance was paid to Steve Rushforth [Deputy Principal³⁴³] so that we could employ staff and have houses and do all those thing things that had to be done. DCD, during the latter part of 2005 from memory - no, 2006 - in 2006, I think it was March or April, started to pay, I think it was more than \$180 a fortnight, from memory, and they started looking at benchmarking payments comparative to other residential providers and they started putting in place individual contracts for each of the young people they were placing in the housing. At no time did the Department of Corrective Services pay for any of the young people they sent to the program, or in the cases where there was conditional*

³⁴² Ibid.

³⁴³ Stephen Rushforth was the Deputy Principal at BSHS.

*releases, they indicated there would be a tender and that there would be bills, as I understood it, issued to those schools from those departments, but it never eventuated.*³⁴⁴

DET involvement in the accommodation component

4.48 Mr Michael Carton advised that when the decision was made through Mr Hammond in 2004 that the housing should be staffed, it was understood that the funding would be coming from the DET.³⁴⁵

4.49 Mr Garnaut advised that there was some expenditure on accommodation by BSHS, and that was recorded in the school's financial records.³⁴⁶

4.50 Whilst Mr Hammond was instructed not to be involved in the funding of the accommodation component by Mr Garnaut,³⁴⁷ BSHS were nonetheless contributing to the funding of the accommodation component. Mr Hammond, when asked why he paid for the accommodation, stated:

*We were promised all these funds. A lot of it was for accommodation. The funds did not come; students were being turfed out in the street. The moral side of me said that I probably needed to pay for the gas, otherwise we would get cut off; that I needed to pay for the accommodation, otherwise they would get turfed out in the street. Morally, I was - you know, I was not on the moral high ground; I felt it was just something I had to do, given that these funds were going to come.*³⁴⁸

4.51 The Committee received evidence that BSHS purchase order forms, signed by Mr Michael Carton were being used for the accommodation. Mr Michael Carton advised that they were used on instruction from Mr Hammond.³⁴⁹ Mr McCaffrey advised the Committee that there was no record of the school paying these accounts.³⁵⁰

4.52 All payments for accommodation workers are alleged to have gone through BSHS:

³⁴⁴ Michael Carton, *Transcript of Evidence*, 22 October 2007, pp4-5.

³⁴⁵ Ibid.

³⁴⁶ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, pp10-11.

³⁴⁷ Public Sector Investigation Unit, Western Australia Police, Balga Works Program Timeline, p2 (private evidence) and Submission No 15 from the DET, August 2007, p6.

³⁴⁸ Mervyn Hammond, former Principal, BSHS, *Transcript of Evidence*, 7 November 2007, p14.

³⁴⁹ Michael Carton, *Transcript of Evidence*, 22 October 2007, p5.

³⁵⁰ Letter from Peter McCaffrey, Deputy Director General, Finance and Administration, DET, 2 November 2007.

Mr Carton: *Okay. The accommodation side - the employment contracts were drawn up and signed by myself, my wife or David Cunningham the HR man that was putting the contracts together. And again all the salaries though were contained in back-to-back schedules for the school. They were all supposed to be paid through the school and then when we found out that the school was not paying it, that is when DCD stepped in and said they would pay it.*

Hon KEN TRAVERS: *Sorry - the accommodation program was supposed to be paid for through the school?*

Mr Carton: *The first 12 months or whatever, the schedules were all paid through the school - all the accommodation. All elements of it were paid for by the school, including the rental on the houses and those things were all paid for by the school. Mr Hammond had assured my wife that in signing the lease agreements that he could not do it because the school could not have a lease, but that we should sign them and that was what was done.*

Hon KEN TRAVERS: *And that did never concern you that you were taking on all these obligations without any contract with the school?*

Mr Carton: *Mr Travers, we did not sleep nights over that. But again, we were faced with the fact that we believed in the chap that was doing it, we were meeting with so many people that were telling us that everything was right and we should keep going. And we also believed that the service we were trying to provide for young people was a service that was needed for these young people.³⁵¹*

Committee comment

- 4.53 The Committee was hindered in its inquiry by the limited evidence it was able to obtain in relation to the funding of the accommodation component, including the lack of detail on income and expenditure of the accommodation program. However, it appears from the oral evidence received by the Committee that the expenditure for the accommodation component exceeded its income.
- 4.54 The Committee notes that Mr Hammond was advised by Mr Garnaut that the BSHS was to have no involvement in the funding of the accommodation component of the BWP. However, despite this instruction the BSHS was providing funding to, and issuing purchase orders for, the accommodation component without DET authorisation.

³⁵¹ Michael Carton, *Transcript of Evidence*, 22 October 2007, pp20-21.

- 4.55 Whilst possibly understandable in the circumstances, the Committee notes that neither the DOJ nor the DCD undertook any due diligence checks on the service provider to ensure that it was financially viable and capable of operating the accommodation component.

ISSUES RAISED REGARDING THE ACCOMMODATION COMPONENT

- 4.56 A number of issues and concerns in relation to the accommodation component were raised with the Committee by former employees and staff of the BWP, and the property managers and owners of the accommodation. These included allegations of:

- i) out of control behaviour of the young people including drug taking, violence, accusations of sexual abuse and intimidation;
- ii) Mr Michael Carton bestowing gifts and giving special treatment to favourite students;
- iii) unqualified staff employed as carers;
- iv) lack of discipline;
- v) poor quality of food provided;
- vi) damage to property by students;
- vii) complaints from residents of Joondalup;
- viii) unpaid staff wages; and
- ix) unpaid rent.

- 4.57 It is alleged that Mr Michael Carton did not allow any of the carers, teachers or behaviour management team to discipline the students when their behaviour warranted it and that all disciplinary actions were to go through him. A former employee of the BWP submitted that:

It was from this time on that my hands were tied and that it became very difficult for me to do the job that I was employed for. Young people were allowed to run riot with under aged drinking, street drinking, vandalism, drug taking, hurling abuse at staff and neighbours. This was all reported to Mr Carton and his main reply was leave them alone they have had horrible pasts and they are damaged goods and need to see and know that people care about them. I replied that we can do this by showing them that this type of

*behaviour is wrong and is not acceptable he replied by telling me to keep my mouth shut and that I am to have nothing to do with them.*³⁵²

4.58 On this issue Mr Michael Carton disagreed and advised:

Mr Carton: *No, I would not agree with that. I would say that there were particular personality differences with some of the young people that would bring that about. These were highly adrift young people and some of the staff would have their own views on how to deal with that. I made many mistakes in dealing with them myself. None of us had the appropriate training to deal with those young people at that level.*

The CHAIRPERSON: *The other thing -*

Mr Carton: *What we would do in the event that they were on supervised bail or on full conditions, in a number of instances, there was process or a procedure that was worked out through Corrective Services - and a charter was put in place where we would have to go back through them. We were not able to do those things that many of the staff expected to be done, in the way it would be done in a residential setting, because of the issues prevailing with the young people. I could not disclose some of those, such as the young people who were on the sex offenders' register and the issues that prevail there. I was not able - or at liberty - to discuss or disclose some of those issues. I would have to go back to the agency that was managing those young people first. I could not do it on the spur of the moment and then it would not be me, but it would be the agency involved that would undertake the actions required.*³⁵³

4.59 It was alleged that Mr Michael Carton did nothing to control the behaviour of the young people, including drug and alcohol taking, vandalism, abusing staff and neighbours. Mr Michael Carton refuted this and advised:

Mr Carton: *I would strongly rebut that statement. I was actively involved in that on a daily basis. I can see why people would have that perception. There were certainly staff that were disgruntled for pays - and they had every reason to be - that would have that view, and I certainly understand their issues.*

³⁵² Submission No 6, p3.

³⁵³ Michael Carton, *Transcript of Evidence*, 22 October 2007, pp25-26.

The CHAIRPERSON: *An allegation that you gave difficult and dangerous students roles of responsibility, including staffing at the Joondalup accommodation?*

Mr Carton: *Flatly, no. There was young people who were at extreme risk and we tried to work with them to build self-esteem and we would give them the opportunity to, hopefully, work with staff to buddy up, but at no time were they given -*

Quite honestly, there were times when we did not have staff and we had to work with the best of what we had because we had nowhere to send those young people on that night. I am sure there were times when it was not what we wanted it to be but we had no option.

The CHAIRPERSON: *There was an allegation that you advised staff not to report incidents of assault by students to the police?*

Mr Carton: *Not at any time; not at any time. In fact, the police got very sick of me wanting to have the young people charged for things like that.*

The CHAIRPERSON: *How about issues to do with breaches of bail conditions or such matters?*

Mr Carton: *I am not following you there.*

The CHAIRPERSON: *Reporting of breaches?*

Mr Carton: *We reported the breaches in accordance with their bail conditions.*³⁵⁴

- 4.60 The Committee received evidence that there were unqualified staff trying to manage very difficult young people:

Mr Lennox: *I was concerned that the staff that were looking after them were not properly qualified or trained to do the job and that they were not employed specifically for that. Because of the type of children that were being housed there, they needed some pretty well-trained staff to be able to deal with that. Even DCD staff would have trouble dealing with what we had,...*³⁵⁵

- 4.61 On this issue Mr Michael Carton advised:

³⁵⁴ Ibid.

³⁵⁵ Stephen Lennox, Supervised Bail Coordinator, Perth Children's Court, *Transcript of Evidence*, 24 September 2004, p17.

***Mr Carton:** I would certainly agree with that to a large extent. The ability to pay restricted immensely the calibre of person that was employed - and their qualifications. I could not disagree with that one.³⁵⁶*

- 4.62 A number of complaints were made to Mr Michael Carton in relation to the accommodation in Joondalup from local residents. In relation to this issue Mr Michael Carton advised the following:

***Mr Carton:** There were certainly many complaints. Without a doubt, it was a program that - there was no forethought or planning in it and it resulted in a lot of the issues that prevailed with the residents, and many of them rightly so. It is fair to say that the complaints were dealt with initially through the school. They were to be directed through to the school and then the school would respond. I recall attending some residents' meetings where it was agreed that the principal would be contacted and there was a separate time where I would be contacted in the event of the complaints. When there were complaints, we would work with the residents to the best of our ability. I might say that in many instances the ability on my part fell well short in dealing with the residents' complaints that were coming through.³⁵⁷*

- 4.63 The Committee was told that the food provided to the students was inadequate and not very nutritional, provided from the Foodbank, with much of the food out of date and there was no fresh fruit and vegetables.³⁵⁸

- 4.64 On this issue Mr Michael Carton advised:

***Mr Carton:** I would say that I believe the food was adequate. I think it was better than adequate. Out of date - yes. The Foodbank - which is where we drew a lot of the food from when we were struggling with money like all agencies - food is out of date but it has been deemed usable and most NGOs and care providers do draw from the Foodbank. So, it was out of date but it had been cleared for consumption through the Foodbank. We drew it from the Foodbank of Western Australia.³⁵⁹*

³⁵⁶ Michael Carton, *Transcript of Evidence*, 22 October 2007, p24.

³⁵⁷ Ibid, p5.

³⁵⁸ Session 8, *Transcript of Evidence*, 11 September 2007, pp8-9, (private evidence).

³⁵⁹ Michael Carton, *Transcript of Evidence*, 22 October 2007, p24.

- 4.65 The Committee received evidence that wages of staff employed at the accommodation were paid irregularly, with many staff not receiving wages for weeks and months at a time. Many former employees have still not been paid wages owed to them. Superannuation and taxation were not paid at all.
- 4.66 The Committee was advised that the rents were largely unpaid from the beginning and were always in arrears and cheques often bounced.
- 4.67 The managing agent of the accommodation, Brooke Stone Holdings Pty Ltd, withdrew in February 2006 as they were not being paid, with rent outstanding totalling \$35,000. From then on the owners of the property dealt directly with Mr Michael Carton.
- 4.68 Mrs Flaherty, Director, Brook Stone Holdings Pty Ltd submitted:

When it was obvious funds were not coming from the Education department - Balga Senior High School, or wherever Michael Carton was receiving them, we could not afford to do all we had agreed to do - because we were not being paid we did not amend the accounts again - just sent the same ones in with a total each week/month or when ever he asked for one. He was so far behind in his payments - we didn't even have enough to cover the rents to the owners each month.

...

To date we had nine (9) bounded cheques from Michael Carton which have cost us \$450 in bank fees.

The trouble was, when Mr Carton did pay (usually 4 weeks later than promised) the next month's rent was due to be paid again. Even after many warning and eviction notices sent by us he only gave us part of the money - always leaving outstanding balances.³⁶⁰

- 4.69 Mr Padmanabham, an owner of one of the Nottinghill Street units advised:

Mr B. Padmanabham: *Rent was overdue; rates, water bills, taxes were not paid and we had to pay them after receiving final notices and demand letters from the appropriate authorities; and these are outstanding.³⁶¹*

³⁶⁰ Syndicated Development Pty Ltd, Michael Carton: Advice to REBA, 31 January 2006, pp3-4.

³⁶¹ Bhupathy Padmanabham, *Transcript of Evidence*, 4 October 2007, p2.

And further:

Mr B. Padmanabham: ... Up to November 2006, we had a lot of problems getting the rent. We had to more or less bug him every day, ring him up and chase him. He even once came to my office to give me the money and he said it was his own money because the government had not paid him.³⁶²

- 4.70 The owners advised the Committee of a meeting they had in late February 2006 at BSHS with Mr Michael Carton, Mr Hammond, and a man from the P & C. At this meeting Mr Hammond assured them that the government, through the DCD were behind the whole program and provided the funding.

It was agreed that all outgoings including building and contents insurance would be the government's responsibility. The units were to be modified by Balga Works but the properties would be handed back 'new' at the end of the lease (i.e. the properties restored to original condition).³⁶³

- 4.71 The units were vacated in approximately mid 2007, however, rent remains outstanding from November 2006.
- 4.72 Mrs Flaherty and Mr Padmanabham advised the Committee that they contacted the DET and the DCD for assistance but did not receive any:

Hon HELEN MORTON: You make comments about your pleas for assistance to the DCD, the Department of Education and Balga Senior High, which fell on deaf ears. Who did you speak to at DCD and when?

Mr B. Padmanabham: I spoke to Colin Simpson. I sent emails to him in April.

Hon HELEN MORTON: April of what year?

Mr B. Padmanabham: 2007. That is when all the problems started.

Hon HELEN MORTON: And in the Department of Education?

Mr B. Padmanabham: There was a lady. Sorry, I moved all my documents over. I wrote it down on the front page. Swan education centre, Anna Coffey at the education centre.

³⁶² Bhupathy Padmanabham, *Transcript of Evidence*, 4 October 2007, p6.

³⁶³ Tabled Paper No 4 from Bhupathy Padmanabham, p4, tabled 4 October 2007.

Hon HELEN MORTON: *When was that?*

Mr B. Padmanabham: *I do not have a date on that one. It was all around the same time. Then there was Jon Cook from DCD, Gary Taylor of Balga Works, October 2006. Then there was Jeff Harris of the P&C of the Balga high, October 2006; Cherryl Barnett and Anne McKay of DCD Mirrabooka.*

Hon PETER COLLIER: *You contacted all of those people, is that what you are saying?*

Mr B. Padmanabham: *Yes, because I was passed on from one person to the other saying, "Talk to these people." So I contacted all of them to find out what was happening and where the money is; how do I get the money, and things like that.*

Hon PETER COLLIER: *This was all around the same time, which would have been when?*

Mr B. Padmanabham: *October.*

Hon PETER COLLIER: *October last year - 2006?*

Mr B. Padmanabham: *2006.*

Hon KEN TRAVERS: *October 2006?*

Mr B. Padmanabham: *Yes.*

Hon PETER COLLIER: *What was the response from those people?*

Mr B. Padmanabham: *Most of them said, "We'll look into it and get back to you." Then I kept on calling them and then they would pass me onto another department saying that they could not do anything because it was not their area, or something like that. So, we just went from one to the other until, in the end, I ended up with Colin Simpson. Then we wrote to the Premier and a few other people this year.³⁶⁴*

And:

Mrs Flaherty: ...

Another thing is that he gave me four LPOs for August 2005 and each one was \$7 800. The name of the school was Balga Senior High

³⁶⁴

Bhupathy Padmanabham, *Transcript of Evidence*, 4 October 2007, p9.

School and he signed it. I thought, "Gee whiz, I have LPOs here." Every time I thought that something was wrong he would come up with another idea and Merv Hammond seemed to back him. I tried to ring the education department to ask if we could get payment on this. The education department said. "That is a different section; it has nothing to do with us."

Hon PETER COLLIER: *You rang the department, not the school?*

Mrs Flaherty: *I rang the school but I actually rang the education department and when I tried to get through I was told that Balga Works is a different operation to them. I said, "How far can I go?" I do not know a lot of people.*

Hon PETER COLLIER: *Can you recall who you phoned or which department you spoke to?*

Mrs Flaherty: *It was the department itself because somebody knew somebody in teaching. I cannot remember.*

...

The CHAIRPERSON: *You said you made a phone call - it does not matter if you cannot remember who it was to - to the department.*

Mrs Flaherty: *Yes and I asked for the section, supply - that is what it was.*

The CHAIRPERSON: *It was one phone call?*

Mrs Flaherty: *I tried twice and they said they could not do it. After I had finished with them, they gave me a few names of people but I did not process it. I just wanted to my wipe hands of it.*

The CHAIRPERSON: *Do you remember roughly when that was?*

Mrs Flaherty: *Around end of 2005-06.*

Hon KEN TRAVERS: *When you spoke to the education department, did you mention that you had a purchase order?*

Mrs Flaherty: *Yes.*

Hon KEN TRAVERS: *What was their response to that?*

Mrs Flaherty: *The person I spoke to in supply - that is where I was told to go - said, "Just a moment", and went through to someone else and said, "It is not our section; we don't have anything to do with that." They basically said, "Look, you will have to go back to Balga Senior High School. They're the ones that answer that." They referred me back to Balga.*

Hon KEN TRAVERS: *Did you go back?*

Mrs Flaherty: *It was like flogging a dead horse. When I went to Balga I got Michael Carton. Michael did not like me very much at that stage. It must have been about January-February of 2006. He was trying to get me in other ways. He knew I was on to him by that stage, if you can call it that. I was awake up to him and was not going to take anymore. By then he was not answering my phone calls or anything. Merv Hammond was not any better. He said, "If Michael says it's going to come, it will come." They both led me, my husband and my accountant to believe that they had two \$250 000 grants and then another \$500 000 grant and all this was coming through from the education department. I just had to hope because we were behind in rent. That is it.*³⁶⁵

Committee comment

- 4.73 The Committee notes that the program lacked sufficient funding to hire and retain suitably qualified staff, to pay rent and to ensure that the young people were provided with suitable food. The Committee was unable to establish whether this was due to inadequate funding, misappropriation of funding, mismanagement of resources or a combination of these factors.

³⁶⁵

Lesley Flaherty, Director, Brooke Stone Holdings Syndicated Development, *Transcript of Evidence*, 4 October 2007, pp3-4.

FINDINGS**Finding 3: The Committee finds that:**

- a) **Mr Michael Carton did not have the necessary skills and expertise to establish the accommodation component of the program;**
- b) **planning and staff training was inadequate to deal with the young people placed in the program; and**
- c) **that Mr Michael Carton mismanaged the supervision of the young people in the accommodation program. This included lack of suitable supervision and the lack of effective discipline and behaviour management.**

MONITORING THE WELLBEING OF THE YOUNG PEOPLE BY THE DCD AND THE DOJ**The DCD**

- 4.74 The Committee was advised by the DCD that the progress of the young people placed by the Department at BWP was monitored by their DCD Case Manager. It was a requirement of the BWP that Case Managers attend regular meetings with residents and staff. Indications from BWP and case managers was that this occurred in the majority of cases. The DCD Aboriginal Support Worker based at Mirrabooka District also visited the young people at the school on most days.³⁶⁶
- 4.75 The Committee was advised that the DCD Case Managers received progress reports and attended meetings in regard to the services provided and outcomes for the children and young people in the service, however, as previously stated at paragraph 4.37, the Minister for Child Protection was not provided with a statement of work performed by the BWP as required by the terms of the Service Agreements.³⁶⁷
- 4.76 As Service Agreements were not entered into for the majority of young people placed at BWP by the DCD, the Committee queried how it was possible for the DCD to gauge whether they were getting the service that they were expecting? Ms Barnett responded as follows:

***Ms Barnett:** Well, there were certainly very regular meetings, as you would have gathered from the -*

***The CHAIRPERSON:** With caseworkers?*

³⁶⁶ Submission No 18 from Hon Sue Ellery MLC, Minister for Child Protection, 13 August 2007, p5.

³⁶⁷ Letter from Hon Sue Ellery MLC, Minister for Child Protection, 24 October 2007, p2.

Ms Barnett: Yes, with the caseworkers, as you would have gathered from the file information that we sent through. Also, we had a worker at Mirrabooka, the Aboriginal support worker, who was down at that program daily. So, we had very good feedback and we felt that we knew we had good information about what was happening. The case manager - there was a process, certainly, I mean, it was easier for the Mirrabooka case managers because we were close - certainly met with the Balga Works people on, generally, a weekly basis to actually review the students', the young persons', progress.³⁶⁸

4.77 The minimum frequency a case manager is required to visit someone under his or her charge is on a quarterly basis. Ms Barnett advised the Committee that staff at Mirrabooka were undertaking weekly reviews of young people in BWP but the reviews were done at BSHS not at the accommodation.³⁶⁹

4.78 In relation to the anti-social behaviour around the accommodation, the DCD advised that they were aware of these and that such issues were not uncommon:

Ms Barnett: It depends what you see as issues at the accommodation service. At various times issues were coming to me about the accommodation that we were taking up with Mike Carton. I was called up to the member for Joondalup -

Hon PETER COLLIER: Tony O'Gorman.

Ms Barnett: Yes. Myself and another district manager met with Tony O'Gorman. A lot of it was around the anti-social behaviour around the units in Nottinghill. There were various issues coming from the accommodation. I do not think I have ever stated here that the accommodation was without issues. None of our accommodation for any facilities where this cohort of young people are residing is without issue with the local community, where they are located. Those concerns that were coming to us, many of them were not any different from what we get as a department for any of our accommodation services where there is a concentration of this cohort of young people.

And:

Hon HELEN MORTON: You also said that the problems around the accommodation were no different to any concentration of young

³⁶⁸ Cheryl Barnett, A/Executive Director, Metropolitan Services, Department for Child Protection, *Transcript of Evidence*, 12 November 2007, p9.

³⁶⁹ Ibid, pp30-31.

folk of the type that were being accommodated there. In your view, how many people constitute a concentration of young folk?

Ms Barnett: *That was one of the issues up at the accommodation. Because they had those four houses all in a group, there were certainly far more young people in one area than what we as a department would have in one of our facilities. In any of our facilities, I think eight is about the maximum number that we would have in one facility, whereas in the end Balga Works had four houses - they were all back to back, all in one area. That in itself led to problems because of the numbers of young people who were actually concentrated in one area.*³⁷⁰

The DOJ

- 4.79 The DOJ advised the Committee that at no time were any issues raised with them that raised concern about the wellbeing of the young people or of the capacity for the BWP to operate. At no point did they believe or feel that the BWP through the BSHS was not an environment that could provide a positive influence on young people:

Hon PETER COLLIER: *... As I understand it, you were very happy with the comprehensive reporting mechanisms that were in place for the referrals program.*

Mr Logan: *Yes.*

Hon PETER COLLIER: *They indicated no problems. Is that right?*

Mr Logan: *There were always issues with young people we placed at Balga Works; there were always issues with young people we placed in most hostels.*

Hon PETER COLLIER: *In terms of duty of care were any instances of concern raised with any of the reporting mechanisms between justice and Balga Works up to 16 June?*

Mr Logan: *There were no instances, to my knowledge, that were raised with me that would preclude us from placing young people there. There were incidents raised. There were issues in terms of young people who had been at Balga Works and we had to breach because of behaviour. There were young people who had been at*

³⁷⁰

Ibid, pp25-26 and p27.

*Balga Works who we had to breach because they had offended whilst in Balga Works or whilst part of that program.*³⁷¹

4.80 The DOJ were aware of the issues related to unpaid wages and the financial viability of the program prior to it making a decision to stop sending young people to the BWP.³⁷²

4.81 The DOJ advised that there are constantly concerns in terms of every young person that they have placed, whether with a family or hostel:

*Quite regularly there are issues and concerns that we need to address, but there were no concerns at the point that young people were at risk or that young people were not in a conducive environment.*³⁷³

4.82 The Committee was advised by the DOJ that the monitoring of bail through the Supervised Bail Unit is coordinated with Community Justice Officers, the Department of Community Development and family members. Monitoring included:³⁷⁴

- contact by the Supervised Bail Unit with the BSHS and the BWP on most days by phone or through contact at the Perth Children's Court;
- supervised Bail staff and/or Community Justice Officers attended Balga Works weekly;
- regular meetings between the supervised bail coordinator and the senior liaison officer at Rangeview Remand Centre on each young person in a placement; and
- case work supervisors from Community Justice Services met with representatives of supervised bail every four weeks to discuss, amongst other issues, Balga Works and raise any concerns or issues. These were then taken to Balga Works by representatives either from the Joondalup or the Mirrabooka Community Justice Services so they could be addressed.

4.83 The Committee noted the advice of the DOJ that the supervision in terms of reviewing the placement by the DOJ is quite thorough, however, that may not be physically seeing a young person, but instead having phone contact with a young person; so, for example, for most of the young people that are placed on supervised bail, a condition

³⁷¹ Peter Logan, Manager, Supervised Bail and Diversion, Rangeview Remand Centre, *Transcript of Evidence*, 19 October 2007, p14 and p21.

³⁷² Ibid, pp10-11.

³⁷³ Ibid, p14

³⁷⁴ Ibid, p9.

of their bail would be a component where they need to report either to the supervised bail coordinator or to the juvenile justice officer regularly, up to three or four times a week, by phone, ringing in.³⁷⁵

The DOJ withdraws from the BWP

- 4.84 Supervised Bail concluded business with BWP on 20 July 2006.³⁷⁶ The Committee was advised that this decision was reached based on the conclusion that BWP was not in a position to positively influence the conduct of the young people on placement and was unable to provide adequate support and direction. It was also apparent that the program was having issues with staffing and with its structure.³⁷⁷
- 4.85 Mr Logan advised the Committee of the issues that factored in the decision to stop placing young people in the BWP:

***Mr Logan:** No, the concern was - the reason that we stopped was that - and I think I did say this before - is that we found that young people we had had in the program had committed self-harm whilst in the program and that information had not been passed on to us and that coupled with the financial situation and industrial issues that were raising -*

***Hon KEN TRAVERS:** But you did have -*

***Mr Logan:** Very much so.*

***Hon KEN TRAVERS:** - concerns about around the care and protection and the environment in which the children were living and being cared for?*

***Mr Logan:** Absolutely. Now, for example, if a young person was in another setting and that was the issue that was presenting was that information had not been passed on, we would more than likely approach that agency and say, you know, we need to know what are the circumstances around this particular incident and whether in fact we need to address some issues with a particular staff member, because we do not want to lose the option of placing young people in the community, but we also do not want to be in the situation where information is not being passed on. Because of this circumstance and*

³⁷⁵ Ibid, p9.

³⁷⁶ Letter from Peter Logan, Manager, Supervised Bail and Diversion, Rangeview Remand Centre, Department of Corrective Services, 29 October 2007.

³⁷⁷ Letter from Simon Ward, Chief of Staff on behalf of Margaret Quirk MLA, Minister for Corrective Services, 3 October 2007.

*the other issues that were occurring, there was a culmination and a sense of like, this is actually - we are far better just to pull away from this agency. Certainly that has happened before - there are other agencies that we have had concerns with and we have just said we will not use that agency again.*³⁷⁸

Committee review of the monitoring processes of the DCD and the DOJ

- 4.86 Concern with the processes of the DOJ was raised by Mr Lennox. He advised the Committee that there was no check undertaken by the court of someone claiming to be the 'responsible person' for a child:

Hon SHEILA MILLS: *Police clearances?*

Mr Lennox: *Anybody can walk in off the street and say, "I am the responsible person of this child", and the court takes it at face value and no check is ever done.*

Hon PETER COLLIER: *But we are not talking about one child; we are talking about dozens and dozens.*

Mr Lennox: *We are talking about lots and lots of children.*

Hon PETER COLLIER: *So do these saints have to have any qualifications at all? Can anyone just walk off the street and access these vulnerable youth?*

Mr Lennox: *And people like me who work in the industry have a horrible feeling in the pit of our stomachs and say, "Can we please check on these people?"*

Hon PETER COLLIER: *That seems absolutely extraordinary.*

Mr Lennox: *It does. It does.*

The CHAIRPERSON: *Is that still possible now?*

Mr Lennox: *Yes.*³⁷⁹

- 4.87 The Committee wrote to the Minister for Corrective Services and asked what checks are undertaken by the Department of Corrective Services when a person attends a

³⁷⁸ Peter Logan, Manager, Supervised Bail and Diversion, Rangeview Remand Centre, *Transcript of Evidence*, 19 October 2007, pp16-17.

³⁷⁹ Stephen Lennox, Supervised Bail Coordinator, Perth Children's Court, *Transcript of Evidence*, 24 September 2007, p18.

juvenile detention centre or the children's court claiming to be the responsible adult of a young person and requesting access to that person. The Minister advised that:

A person attending a juvenile detention/remand centre with the intent of accessing a young person is required to provide photo identification. This includes Official visitors such as Police, Dept of Child Protection, and Community Justice Staff.

Standing Order 12 of the Rangeview Remand Centre outlines the process for family, community and official visitors; this order states that visits from persons other than siblings (with parents) can be made with approval of the Superintendent but the parents of the detainee must give written agreement and in the case of under 18's their parents must give written approval (and they can only visit with an approved adult). The Standing Order also outlines the process for official visitors and police visits/interviews.

A person attending the centre with the intent of signing a Responsible Person Undertaking is required to fulfil the following criteria;

- 1) the person is in a position to influence the conduct of the child.*
- 2) the person is able to provide the child with support and direction.*

In all cases the Authorising Officer [sic] must satisfy themselves that the criteria has been met.

If and when persons other than a parent/caregiver attends the centre to undertake a Responsible Person Undertaking the Family Liaison Unit liaise with a parent regarding the suitability of the individual to take responsibility for their child. Under circumstances where the parent is unwilling or unable to have input into the assessment, the Family Liaison Unit will seek advice from the Dept of Child Protection with regard to the suitability of an individual.

On those occasions where the Supervised Bail Unit are undertaking the role of responsible person and placing the young person in a hostel or community setting the agency or government department need to comply with the relevant standards and legislation including Police clearance and Working with Children clearances.

With regard to the Children's Court the process and approval of Responsible Persons Undertakings is done through the Clerk of the

*Courts, which is under the auspice of the Department of the Attorney General.*³⁸⁰

The DOJ processes post the BWP

- 4.88 The Committee asked whether the DOJ had reviewed its processes to ensure that it does not again refer young people to a program experiencing problems like the BWP. In response the Minister for Corrective Services advised that:

*Supervised Bail have a responsibility to place young people in a positive environment with people conducive to their well being. There are clear and written agreements outlining expectations and protocols with the services currently utilised by Supervised Bail. With one exception all services are funded through government and have meet [sic] the criteria of the respective funding agreement.*³⁸¹

- 4.89 Mr Logan advised the Committee that they have tightened their process as a result of the DOJ experience with the BWP:

Mr Logan: *One of the unfortunate aftermaths of the BWP is that we are a lot more cautious and careful about where we place young people, and we ensure that we have very clear written protocols with agencies and hostels that we are actually placing young people with, above and beyond just the general document that has come out of our database. And in terms of those protocols, which we review generally every 12 months or so, they very clearly outline our requirements and certainly there are some agencies that find that they cannot actually fulfil our particular needs in terms of reporting, and we choose not to use those agencies, and that is no reflection on their capacity; they just see that it is a conflict with their particular role and the term “soft cop” comes in, and certainly -*

Hon KEN TRAVERS: *Do you have an audit process, though, to make sure that there - is there some sort of auditing process to make sure that they are fulfilling their obligations?*

Mr Logan: *Aside from contact and discussion?*

Hon KEN TRAVERS: *Hmm.*

Mr Logan: *No.*

³⁸⁰ Letter from Margaret Quirk MLA, Minister for Corrective Services, undated, (ref: 07019(2)).

³⁸¹ Letter from Margaret Quirk MLA, Minister for Corrective Services, 5 November 2007.

***Mr Robins:** No, it is very difficult. I mean, most of it is going to be through supervision or contact, I mean, and I guess the only way that people know whether there has been a breach is whether the young person is either caught out or does something wrong and gets caught. So, the difficulty is in terms of how do you actually audit, and it does rely to a large extent on trust with the organisation and the arrangements and agreements that we have got. If they do not report it or the kid does not get caught, there may well be a breach and no-one will ever be aware of it, and there is no way of actually knowing whether there has been a breach until such time as, yes, something is found out.*³⁸²

DCD processes post the BWP

4.90 Refer to paragraph 4.36.

Committee comment

4.91 The Committee notes:

- a) that both the DCD and the DOJ initially felt that the BWP was a suitable placement for young people;
- b) the view of the DCD and the DOJ that the issues and concerns raised in relation to the anti-social behaviour of the young people were not uncommon for such an accommodation service;
- c) the monitoring processes of both the DCD and the DOJ, and that these processes did not identify the failures in the administration of the program. However, these processes seem consistent with the established procedures of these Departments; and
- d) the evidence from the DCD and the DOJ that they have improved their placement processes.

4.92 The Committee cannot come to a conclusion on the adequacy of these monitoring processes.

Recommendation 5: The Committee recommends that a review of the monitoring processes for placements by the Department of Corrective Services and the Department Child Protection be undertaken.

³⁸²

Peter Logan, Manager, Supervised Bail and Diversion, Rangeview Remand Centre, *Transcript of Evidence*, 19 October 2007, p13.

CHAPTER 5

ISSUES WITH THE BALGA WORKS PROGRAM

ISSUES WITH BSHS MANAGEMENT

- 5.1 Overarching the issues that were being experienced by the BWP were the issues being faced by the whole of the BSHS resulting from poor management (see paragraphs 3.34 to 3.43).
- 5.2 These issues had been identified by the Mr Garnaut in 2004 and were primarily about school planning, accountability and management practices and outcomes in the school. These management issues were seen to be related in part to the range and complex structure of the programs and in part to the lack of capability of the management team at BSHS.³⁸³
- 5.3 These issues were noted in a report by Mr Jonathon Cook of Meta Ink, 17 January 2005, that was commissioned by Mr Garnaut (**Cook report**). The Cook report examined the financial, leadership, management and personnel structures and operations of BSHS, with the purpose of determining either the capacity of the school to fund an additional Level 4 Deputy Principal position, or/and the need for an application to DET Corporate Executive to provide such a position additional to the school's resources.
- 5.4 The Cook report commented on the organisational complexity of a school offering numerous programs but operating on a mainstream school based structure, and the management problems which arose from this:

However, management problems which accrue are demonstrable in the performance of the school:

- *The school essentially is provided for on a mainstream basis, but must then redeploy positions to fit special programs.*
- *The school regularly and successfully goes outside of the system to seek funding for special programs it mounts, in effect resulting [in] a culture incorporating factors such as standard versus special; mainstream leadership versus special program leadership; and divided or complex responsibilities for the school's overall leadership.*

³⁸³ Jonathon Cook, Meta Ink, *Report: Balga SHS*, commissioned by John Garnaut, Director of Schools, Swan District Education Office, DET, 17 January 2005.

- *Sustainability is always a problem for special programs which rely upon extra-ordinary funding for survival.*
- *Decision-making (including planning, curriculum, accountability and reporting) becomes inconsistent across school years (because separate Year DP's are responsible) and across the mainstream and the set of special programs (because each special program tends to 'go it alone', with its own leadership and the mainstream leadership tends to ignore the special programs for the same reasons).*
- *The overall school leadership of principal and two L4 DP's finds itself running a normal school (even if very small) together with a set of complex sub-schools.*
- *The school is always at loggerheads with the conservative nature of WA mainstream schooling and culture ...*

5.5 The Cook report also noted that the existing funding basis for the BSHS was stretched mainly due to the school's focus on pastoral care and personalised support for students in need. Further, there was no sense of financial management at the BSHS.

I further find that, while the school is 'imaginative' in its approaches to utilising its available funds to meet its programmatic needs (its budget transference achievements are illuminating, and - given the school's demonstrable financial probity - provide a model for a self-managing school committed to utilising its resources to the fullest capacity on behalf of the real needs of its students and staff!), there is no sense of financial management. It [sic] just that the school currently does not have capacity in terms of this report's purpose.³⁸⁴

5.6 However, it was noted in the Cook report that the BSHS had been audited and was shown to be financially accountable:

The appended set of financial documents supports my findings that the school is financially accountable and has been audited as such.³⁸⁵

5.7 The Cook report stated that the Principal was not a standard management-model principal and that he required a particularly defined and strong support leadership team, in order to remain in management control:

³⁸⁴ Ibid, pp4-5.

³⁸⁵ Ibid.

It is my view that the principal of Balga SHS is remarkable for his innovatory and risk-taking endeavour on behalf of a problematic and needy group of students. But he is not a standard management-model principal - and perhaps could not be if he were to engage in the endeavours he has attempted. He requires a particularly defined and strong support leadership team, in order to remain in management control. He has not had and does not have this team ...

- 5.8 Mr Taylor was appointed as the supplementary deputy principal in Semester 2, 2005 to help address the issues with the school (see paragraphs 3.35 to 3.40). Mr Taylor advised the Committee that poor management was the major issue confronting the school:

Hon KEN TRAVERS: *From your experience now having been in the school, what would you say was the most important thing the school needed at the time that you were appointed?*

Mr Taylor: *Good management across the board, which includes financial management, of course. Twelve out of the 13 programs had good managers who had not been taught or trained in how to manage. A big part of my job was to upskill them in much of that and part of that was financial management. It was absolutely through no fault of the 12 of the 13 programs that they were strapped for cash and there was no money in the school. It was the thirteenth program, that lucky number, that drained the school of all its resources.*³⁸⁶

- 5.9 Mr Taylor advised the Committee that budgeting and financial management were also major issues that the BSHS was facing, and that by the end of 2005 and in 2006 the BSHS had run out of money:

Mr Taylor: *... One of the things I determined to do, and it was partly by default and partly by design, was to try to work into the school plan each program plan with a budget. Budgeting and financial management was clearly an issue for the school. I tried to work into program plans - each program had a manager, a coordinator, and I worked with them through financial management processes and getting a budget happening. Budgeting is easy when you have money. When you do not have any money, you cannot budget. It became nearly an impossibility in many cases. We had these projected budgets - these airy-fairy "what would you do if" sort of budgets. Towards the end of 2005 and for pretty much all of 2006 the school literally had no money. It was the only reason that the staff from*

³⁸⁶Gary Taylor, Deputy Principal, BSHS, *Transcript of Evidence*, 1 November 2007, p23.

Hurson were not being paid. They were paid until the school ran out of money.

Hon KEN TRAVERS: *When you were appointed to the position, financial management was not one of the high areas?*

Mr Taylor: *Definitely not.*³⁸⁷

INADEQUATE FINANCIAL MANAGEMENT OF THE BWP

5.10 The BWP had no operational budget established to guide expenditure on the program:

Hon KEN TRAVERS: *... Was there ever a budget and a proposal put together at the commencement of the program?*

Mr Carton: *No, Mr Travers, no. It was like topsy. The amount of times that we sat down with Mr Hammond and said we have got to get this in order, it cannot keep going and there was always the promise - we were told to even go out and employ a risk assessment person to do the risk assessment, but there was no money for it. You know, there was always somebody else to employ or to talk to that never amounted to anything. It grew like topsy. There was absolutely no or very little planning at any time. The only time I think there was any measure of structure was when Mr - Gary Taylor the deputy that was sent from the school started to put things into order and Steve - Steven - the deputy before Gary, who in three weeks worked out that the school was insolvent, that the program should shut and - or be funded. He told everybody within the department of education and then he was moved within weeks of that. It was unbelievable how quickly - he told people exactly how it was. He and I sat down - Steve - I cannot think of his surname - but we sat down and worked it out. He agreed - we both said it just could not continue. He told everybody and then they moved him.*³⁸⁸

5.11 Mr Taylor advised the Committee of the ad-hoc nature of the financial management of the BWP:

Mr Taylor: *To the best of my knowledge, until I actually drew up the budget, there was never a budget drawn up, so it was just basically, well, you know, we have enrolled 150 kids; we will get FTE for 150 kids; we will employ the staff that are going to be required for that*

³⁸⁷ Ibid.

³⁸⁸ Michael Carton, *Transcript of Evidence*, 22 October 2007, p20.

*number of kids. This is - I do not know this for a fact. This is my guesstimate of how it panned out.*³⁸⁹

Committee comment

- 5.12 The Committee notes that the BSHS was experiencing management and financial problems and did not have a strong organisational structure in place to support the programs being offered at the school.
- 5.13 The Committee notes that Mr Hammond commenced the BWP in 2004. The Committee further notes that the BWP was formally sanctioned in 2005 as a school based program by Mr Garnaut and with the concurrence of other senior officers of the DET, even though they were aware of the problems facing the BSHS at that time.
- 5.14 The Committee notes that the financial management of the BWP was inadequate.

NO DUE DILIGENCE UNDERTAKEN ON MR MICHAEL CARTON, MITS OR HURSON

- 5.15 The Committee in its inquiry discovered that no background checks or due diligence were undertaken by the DET on Mr Michael Carton, MITS or Hurson at any time.
- 5.16 The Committee understands that when Mr Michael Carton first presented himself to Mr Hammond and the DET, it was as an employee of what appeared to be a credible and successful program being run by MITS, which had personally been viewed by Mr Somerville, Mr Hammond and Mr Hodge in May 2004.
- 5.17 The Committee has not received any evidence to show that background checks were undertaken on either MITS or Hurson at the time they were engaged by BSHS to operate the BWP. The Committee notes that MITS went into liquidation in April 2005.
- 5.18 The Committee notes that Mr Michael Carton was an undischarged bankrupt. Mr Michael Carton's bankruptcy details were entered on the National Personal Insolvency Index on 30 September 2003.³⁹⁰ He also pleaded guilty in a Victorian Court to defrauding the Commonwealth of \$140,000 in 1999.
- 5.19 Mr Hammond advised the Committee that he did not undertake any background check on Mr Michael Carton:

The CHAIR: *Did you undertake any checks on Michael Carton's background?*

³⁸⁹ Gary Taylor, Deputy Principal, BSHS, *Transcript of Evidence*, 1 November 2007, p33.

³⁹⁰ Australian Government Insolvency and Trustee Service Australia, National Personal Insolvency Index, extracted on 27 September 2007.

Mr Hammond: *No. I had his brother on the staff. I sort of spoke to Michael fairly - fairly - long about his own background, being an ex-Balga high school student in the seventies and those sorts of things, but, no, I did not check.*³⁹¹

- 5.20 Mr Hammond advised the Committee that he did not know Mr Michael Carton was a bankrupt in the early stages. When asked by the Committee when he became aware of Mr Michael Carton's bankruptcy Mr Hammond was in the Committee's view evasive as to if, and when:

The CHAIR: *Were you aware of Mr Carton's bankruptcy, and if so, when and how did you become aware?*

Mr Hammond: *I certainly read things in the paper much later in the piece, but nothing in the early stages.*

The CHAIR: *So, can I clarify: are you saying you became aware of Mr Carton's bankruptcy via the media?*

Mr Hammond: *He changed - he came to me once and said that the MITS was going to change its name to Hurson because of an issue and then I stumbled on the fact that there was possibly some bankruptcy-type things evolving at that point in time. Now, I cannot remember what month or what year or whatever.*

Hon KEN TRAVERS: *So, bankruptcy for MITS or for Mr Carton?*

Mr Hammond: *Well, I am not quite sure, to be honest. It certainly was something that was around the place. I do not think it was bankruptcy for Carton that was - it must have been bankruptcy for MITS, I think.*

Hon KEN TRAVERS: *So, Mr Carton has never spoken to you to advise you that he is a - he was in - bankrupt?*

Mr Hammond: *I do not, I cannot remember any discussion like that. No, I do not remember that, no.*³⁹²

- 5.21 Mr Hammond further advised the Committee that if he knew Mr Michael Carton was a bankrupt he would have obtained clearance:

³⁹¹ Mervyn Hammond, former Principal, BSHS, *Transcript of Evidence*, 7 November 2007, p11.

³⁹² Ibid.

Hon KEN TRAVERS: *If he had advised you that he was a bankrupt, would that have changed the way in which you dealt with him, do you think?*

Mr Hammond: *I would have got some clearance from someone.*³⁹³

- 5.22 Mr Michael Carton, however, advised the Committee that he had told Mr Hammond that he was an undischarged bankrupt prior to the program commencing and that Mr Hammond had assured him that it was not an issue for him:

The CHAIRPERSON: *Did you inform Mr Merv Hammond at any stage that you were an undisclosed [sic] bankrupt; and, if so, when?*

Mr Carton: *I was an undischarged bankrupt. Mr Hammond was made aware of that prior to commencing the program. Mr Hammond explained to me that that will not make any difference. He had a staff member, [name deleted by Committee], who had been or was bankrupt and it did not make any difference in what I was doing. I did go through that with him and I made that very clear at the time. He related a staff member who was in that position.*

The CHAIRPERSON: *Can you remember when you made that disclosure to Mr Hammond?*

Mr Carton: *When I was sitting in his four-wheel drive on a very hot day. That would have been in 2004 in the first or second visit to Perth.*

The CHAIRPERSON: *Was there anybody else present when you told Mr Hammond?*

Mr Carton: *No, I do not believe so. Mr Hammond readily spoke about it in the company of others throughout the program.*

The CHAIRPERSON: *Did you ever disclose your status as an undischarged bankrupt to any of the individuals or agencies of government from which funding or other approvals were sought in connection with the Balga Works program?*

Mr Carton: *No, I do not believe I did. In each of those activities, for school or other agencies, I always attended with one of the staff of the school or one of the other Department of Education and Training*

³⁹³

Ibid.

*staff. Mr Hammond was well aware of the position at all times. That is why Mr Hammond insisted on being involved.*³⁹⁴

- 5.23 Mr Garnaut advised the Committee that the Investigation Reference Group had not undertaken any checks on Mr Michael Carton or Hurson at the time that it was making the decision to continue the program in early 2006. Mr Garnaut further advised that:

Mr Garnaut: *At that time, there was no information available to the department that I am aware of that indicated that Michael Carton had problems in other parts of his business life, and so it was not perceived as a need to interrogate Michael Carton for his role in the program early in 2006.*³⁹⁵

- 5.24 Due diligence checks are intended to identify whether an organisation is responsible, reliable and legitimate and has the financial capacity to deliver the services for which they are being contracted.

- 5.25 Mr Garnaut advised the Committee that he was not aware of any policies, procedures or guidelines where due diligence checks should occur before the DET enters into contracts or allows a non-government provider onto a school site. The principal is however, required to confirm that the provider is appropriate to work on site:

Hon KEN TRAVERS: *I just want to go back to the question about what checks were done about Michael Carton or Hurson at the time of making the decision to extend the program. Your comment was that no-one was aware of any concerns about Mr Carton at the time. I guess my question is, though: before the department enters into contracts or allows a non-government provider onto a school site, are there any policies, procedures or guidelines on what should occur before those contracts are entered into or people are allowed onto the site?*

Mr Garnaut: *Well, the principal needs to confirm that they are appropriate people to work on site, that they have a police clearance, and we talked previously about their right to accept duty of care. They are the general, run-of-the-mill checks that are done.*

Hon KEN TRAVERS: *Are you aware of any policies or procedures, because from the way you have explained it today, principals have a degree of autonomy in terms of what they can do in terms of the operations of their school and how they can use their budget? So if*

³⁹⁴ Michael Carton, *Transcript of Evidence*, 22 October 2007, p8.

³⁹⁵ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p33.

they decide to use some of that budget to engage outside organisations, are there any guidelines at all for them in terms of due diligence checks that they should do to make sure that the company that they are dealing with is a responsible, reliable and legitimate organisation that has the financial capacity to deliver the services that they are being contracted to etc, that you are aware of in the department?

Mr Garnaut: *I am not aware of any such particular policies.*

Hon KEN TRAVERS: *But is it common for schools to enter into contracts with outside providers of services?*

Mr Garnaut: *It is not common. Most schools do not.*

Hon KEN TRAVERS: *But every school does have the capacity to do it if they chose to.*

Mr Garnaut: *They do have the capacity to as long as they operate within department policies and guidelines, and the key one, of course, is the financial management in schools policy and the contract management policy, which requires calling for tenders with any expenditure, for example, with a provider that is going to be over \$100 000.*

Hon KEN TRAVERS: *But I still would have thought that some sort of requirement to do some sort of due diligence on the company and the senior executives of it. There is no policy there?*

Mr Garnaut: *I am not aware of any policy in that area, but I can certainly follow up on that one if you wish me to.*

Hon KEN TRAVERS: *If it was there, is it likely as a director you would know that, because obviously I would assume that principals come to you for advice and say, "I want to do this. What do I have to do?" So, if you are not aware of it, is it likely that most principals would not be aware of it as well.*

Mr Garnaut: *I would say most principals are not aware of such a policy because very, very few principals engage in that type of operation.³⁹⁶*

³⁹⁶

Ibid, pp33-34.

- 5.26 When asked how Mr Hammond would have been aware of his obligations if there were no written policies and guidelines, Mr Garnaut responded that he had instructed Mr Hammond to meet with the manager of contract services to ensure that Mr Hammond was fully cognisant of all contract management policy. This meeting occurred on 14 February 2005.

The CHAIRPERSON: Can I just follow up on that one a little bit, too? So, as I understand what you are saying, is it that there are not any guidelines, to your knowledge, that are written down or documented anywhere to deal with these checks. How would it have been, then, that Mr Hammond would have been aware of his obligations if there was nothing in writing?

Mr Garnaut: When we were planning the Swan Works program, and Merv Hammond was intimately involved in that, and that commenced late 2004, because there was involved the contract of a private provider in the Swan Works program, I ensured and directed Merv Hammond to link and speak and meet with our manager of contract services, so that he could be fully briefed with full details of contract management processes.³⁹⁷

Committee comment

- 5.27 The Committee notes that no background checks or due diligence were undertaken by the DET on Mr Michael Carton, MITS or Hurson at any time. The Committee further notes that Mr Michael Carton was an undischarged bankrupt and that he had pleaded guilty to defrauding the Commonwealth in 1999.
- 5.28 The Committee notes the evidence of Mr Garnaut that there are no written policies or guidelines for the contracting of a private service provider by a school.
- 5.29 The Committee is of the view that the DET should have specific written policies for the due diligence checks that should be undertaken when engaging a private service provider in a school. Further that the DET should ensure that principals implement these policies.

Hurson not a registered training organisation

- 5.30 The Committee noted that Hurson was not a registered RTO.³⁹⁸

³⁹⁷ Ibid, p34.

³⁹⁸ Supplementary Information provided by John Garnaut, District Director, Swan Education District, DET, 25 October 2007, p2.

- 5.31 The Committee noted that the RTO status of Hurson was raised in the December 2005 audit and investigation report (see paragraph 3.64). As advised by Mr Garnaut:

Hon PETER COLLIER: *Just with regard to that, then, in the investigative report that came out in December of 2005, one of the areas needed to be investigated was whether Hurson was a registered RTO. Was that determined?*

Mr Garnaut: *I cannot recall the detail of the follow-up to that particular issue.*

Hon PETER COLLIER: *It would be extraordinary if Hurson were not a registered RTO. Would you agree with that?*

Mr Garnaut: *It would be extraordinary - what - I am sorry?*

Hon PETER COLLIER: *If Hurson were not a registered RTO, and delivering service delivery that had options in a secondary school.*

Mr Garnaut: *Yes.*

Hon PETER COLLIER: *So, this was just in the investigative report that was prepared for you in December 2005. One of the findings said - was the second contractor, Hurson Pty Ltd, a registered RTO? I think that is a logical question, and if the money is being directed into Hurson, you would assume that it is being directed into a legitimate company. Is there any way we can find out, or you can find out, whether or not Hurson was a registered RTO, and whether or not that question was actually determined through the investigative report?*

Mr Garnaut: *Through the investigation reference group, different people took different responsibility for different parts of the investigation and operations that followed. I just cannot recall at this time who took responsibility for following up on that particular item.*

Hon PETER COLLIER: *But as I said, certainly in light of the audits that were done, you would have to assume that would have to be a pivotal question to be asked. Is the company that is delivering the services a registered RTO?*

Mr Garnaut: *Would you like some follow-up on that particular issue?*

Hon PETER COLLIER: *Yes, just on whether or not it was discovered whether or not Hurson was a registered RTO.*³⁹⁹

- 5.32 The Committee notes that the Burgess Report included an interview with Mr Michael Carton in which he states that Hurson has never been an RTO:

Question

Was Hurson Pty Ltd an RTO?

Response

*It has never been an RTO.*⁴⁰⁰

- 5.33 The Committee notes that the Burgess Report also included an interview with Mr Hammond in which he states that Hurson was an RTO:

Question

Is Hurson Pty Ltd an RTO?

Response

*Yes.*⁴⁰¹

- 5.34 Mr Garnaut advised that the RTO status of Hurson was not considered or checked by the Investigation Reference Group when deciding whether to continue with the BWP in 2006.⁴⁰² He also advised the Committee that Mr Hammond did not raise this issue with him or the Investigation Reference Group. Further, that both Mr Hammond and Mr Taylor indicated that Hurson was operating as an RTO.

There is no reference to the statement by Carton about Hurson's RTO status in the summary or any other party of [sic] Burgess Report. The RTO status of Hurson was not dealt with at the Follow Up Meeting on 3 January 2006 ... or by the Special Audit Investigation Report ...

Inquiries have indicated that there is no record of Hurson being registered as an RTO at the Western Australian Training Accreditation Council, or its Victorian counterpart.

³⁹⁹ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p33.

⁴⁰⁰ Peter Burgess, *Investigation Balga Works Program DET*, December 2005, p58.

⁴⁰¹ Ibid, p18.

⁴⁰² Supplementary Information provided by John Garnaut, District Director, Swan Education District, DET, 25 October 2007, p2.

*MH sought continuation of Hursons [sic] as a provider from 2005 to 2006. To my knowledge he did not raise any issues relating to Hursons [sic] and RTO status with line management or with members of the Investigation Reference Group, despite numerous meetings.*⁴⁰³

Committee comment

- 5.35 The Committee notes Mr Newton's advice that it was not essential that the service provider be a RTO given the educational background of the students and the nature of the program.⁴⁰⁴
- 5.36 However, the Committee believes that it was essential for DET to establish that the provider had the demonstrated ability and expertise to deliver the educational and training programs.
- 5.37 The granting of RTO status to a private provider indicates their ability and expertise to deliver the educational and training programs.
- 5.38 The Committee notes that neither the Principal nor the Investigation Reference Group sought to establish the ability or expertise of Hurson.
- 5.39 The Committee is of the view that the Investigation Reference Group should have followed up on this matter when it was raised in the Burgess Report of December 2005 and before recommending the continuation of the program in 2006.

Recommendation 6: The Committee recommends that the Department of Education and Training develop written policies and guidelines for due diligence checks that are to be undertaken by a school when engaging a private service provider. This includes ensuring the private provider has processes in place to ensure that the staff hired by the private provider are appropriately qualified.

CONCERNS RAISED WITH THE OPERATION OF THE BWP

- 5.40 Evidence received by the Committee showed that there were many concerns raised in relation to the operation of the BWP throughout the life of the program. These concerns related to:
- i) the inadequate behaviour management of the students attending the program;
 - ii) health and safety issues for staff and students attending BSHS;

⁴⁰³ Ibid, pp2-3.

⁴⁰⁴ Supplementary information provided by Keith Newton, A/Deputy Director General, Schools, DET, undated, p1.

- iii) the failure of the program to deliver the educational outcomes it was promising;
- iv) the accommodation component of the BWP (refer to chapter 4 paragraphs 4.56 to Finding 3); and
- v) unpaid wages of BWP staff (refer to paragraphs 3.150 to 3.152 and paragraph 4.65)

5.41 It was submitted to the Committee that the behaviour of the BWP students was very threatening and out of control. Mr Taylor advised that he spent much of his time setting up a process to manage the behaviour of the BWP students:

... Certainly with Balga Works, the initial issues that I was presented with were mostly behaviour management. What was really in my face most of the time were issues with Balga Works kids going into the school grounds and presenting many significant behavioural issues. These were the very pointy end kids - the very, very worst of the worst, I suppose, in terms of their behaviour, attitudes and backgrounds. Many of them were coming to school drug affected. Many of them had had no schooling or very little schooling previously. Many of them were simply not capable of surviving in any sort of other schooling program - not even special programs, let alone mainstream programs. They really were the worst of the worst sorts of kids. At any given time there could have been 30 or 40 of them on site. They presented quite significant problems - they really did. The majority of my time - and I remember relaying this to John Garnaut a number of times - in that first semester was simply working with the staff at Balga Works to get the behaviour management systems right. I guess that took the focus away from everything else at that point in time.

The CHAIRPERSON: *In your view, how were those behavioural issues being managed at that time?*

Mr Taylor: *They were not particularly being managed initially. I have a background in behaviour management. I have worked at some pretty tough schools dealing with the top-end kids and behaviour management systems across the schools for those kids. I believed I could get in there and fix it up, and I believed I did. I worked with the staff to implement a number of strategies that made those kids and their behaviours tenable; in other words, confining them, having safety procedures like two-way radios, having staff clearly visible with loud coloured vests and so on, and making sure*

*the kids were clear on what the expectations were - a whole range of strategies that actually confined them to a particular area. We found some other areas for them to go to that were not impinging on the actual school itself, which was further out at the back of the school. We opened up an area there for them.*⁴⁰⁵

- 5.42 The misbehaviour of the students at the BWP was negatively impacting on the staff of the BSHS who were untrained to deal with the BWP students. Mr Taylor advised:

*We made sure that the mainstream Balga Senior High School staff were clear on their roles and responsibilities, because they were unsure about what to do if a kid from Balga Works came into the school grounds - they were not sure what was their responsibility. The kid would just tell them to, "Fuck off. I'm not doing anything." If they dared to try to challenge that, they would pick something up and hurl it at them. So it was making sure that the Balga Senior High School staff were clear on their roles and responsibilities, making sure the kids from Balga Works and the kids from Balga high school and all the staff knew what they were supposed to be doing at any given time and, if things did go pear-shaped, as they often did, applying sanctions for the Balga Works kids, which had them off site, because that was not previously available to us. It was really important that the Balga high school staff, as any school staff, when they saw kids doing the wrong thing, were seen to be taking some action. So they felt safer and better. At one stage in 2005, I think, basically, the Balga high school staff were ready to walk out and say, "We've had enough", but we fixed it, and from late October, November, through to mid December 2005 would be, as I would describe, very much the best period for Balga Works. There would have been 40-odd kids on site every day, they had a reasonable educational program, they were not misbehaving particularly, other than odd pockets towards the end, and things were looking pretty good.*⁴⁰⁶

- 5.43 Mr Lennox similarly advised the Committee that a major problem he encountered at the BWP was management of the students and the impact the behaviour of the students had on staff of the BWP:

Hon PETER COLLIER: *Why was that? What were the main problems in terms of the management of the day-to-day operations of the program, as you saw it?*

⁴⁰⁵ Gary Taylor, Deputy Principal, BSHS, *Transcript of Evidence*, 1 November 2007, pp2-3.

⁴⁰⁶ Ibid, p3.

Mr Lennox: *Trying to stop them from killing each other; killing themselves; people with drugs around the school trying to entice the children out; just the management of children that had not been managed.*

Hon PETER COLLIER: *If there were 20 or 30 staff on hand, what was the problem in terms of behavioural management? Was there a problem in terms of ascertaining who was responsible for certain students or was it just a lack of determination about responsibilities for each of the staff?*

Mr Lennox: *Staff morale was obviously low across the board. Some staff just got to the stage where they were not turning up - so we were relying on some staff who were not turning up. The teachers could only teach if they had someone to assist them in the management of the children during the day. So, it was a matter of making sure that there was somebody there to manage them if there was a crisis - that somebody was capable of dealing with that crisis - [and] to get these children focused and stop these children from literally killing each other. If you had to do something off-site, it would take a considerable number of the staff. The staff that were supposed to work at the hostels on duty at night time, were not supposed to be on duty during the day time; but sometimes they would have to just because of the sheer numbers.⁴⁰⁷*

- 5.44 Mr Adrian Brand, Acting Deputy Principal at BSHS and the BWP Coordinator from April 2006 to August 2006,⁴⁰⁸ raised many concerns with the BWP, which were noted in a letter to the Balga Works Management Committee as follows:

The situation as it exists in BWP is increasingly untenable.

Issue 1:

Students who are sick, coming “down”, severely agitated or whose behaviour is unacceptable are being permitted on the school site. This causes considerable problems for the staff and program. Our ability to risk manage the problem is compromised, as they are often abusive, violent, destructive and noncompliant. The prevailing atmosphere becomes confrontational as the perception exists that there are no consequences for antisocial behaviour.

⁴⁰⁷ Stephen Lennox, Supervised Bail Coordinator, Perth Children’s Court, *Transcript of Evidence*, 24 September 2007, p5.

⁴⁰⁸ Fifth Submission from the DET, September 2007, Attachment G, p3.

Issue 2:

Certain students refuse to engage in class; wander around, swear, threaten, imbibe in substances, and actively encourage others to truant or misbehave. These students are a threat to other BSHS students and staff and compromise the efficacy of the program. Our ability to serve suitable sanctions and behavioural modification plans are compromised and restricted. I am officially stating that we have on campus, intolerable and dangerous OHS and Duty of Care issues.

Issue 3:

Students arrive from the accommodation without having suitable clothing (tank tops, open shoes, low cut blouses, unwashed and rancid), some are overly tired from staying up with substance abuse or a spree. Others have had their employment or course severed due to sleeping in and unpreparedness [sic]. Many students are regularly stoned.

Issue 4

Influential, recidivist individuals actively defy staff instruction and flagrantly disrespect people, property. Such students seem to be able to come and go despite their crimes. Negative role modelling is endemic and pervasive.

Issue 5

The acting DP has had no input from LACs or Curriculum leaders regarding rigour, curriculum design, assessment, reporting or pedagogy. At present, the nature and skills of the staff determine the curriculum, whether appropriate or not. Facilitation of an engaging, relevant and inclusive curriculum is problematic.

There are a plethora of other issues that negate the exceptional willingness of staff to make this program successful. Staff stress and burnout is accelerated due to the dysfunctional nature of the program at present. Inconsistent management of individuals and the disparity of pastoral care between school and accommodation is frustrating.

...⁴⁰⁹

⁴⁰⁹ Letter from Melissa Gillett, DET, 18 December 2007, Appendix 22, Email from Mervyn Hammond, Principal, BSHS, to Melissa Gillett, 7 August 2006 with attached letter of concern from Adrian Brand (undated).

- 5.45 Further, concerns of Mr Brand were noted in a email to Ms Gillett, Mr Taylor, Mr Hammond and others as follows:

As you know I have been highlighting various OHS and Duty of Care issues that arise in BWP, particularly with the disparity between DET and Hurson's Behaviour Management ... eg staff assaults, drug abuse ad nauseam ad infinitum. Two assaults of staff this week, and drug affected students on campus will serve to illustrate my example.

Very little proactive and meaningful [sic] can be accomplished by me as the staff are not DET employees so therefore my management, advocacy and support is compromised. ...

My health (and the BWP staff) has suffered and I cannot ethically support the structure and function of BWP in its present form. My urging for change has not been complied with, and I have not been paid the appropriate remuneration. ...

The most pressing issue right now is to replace all walkie-talkies as our internal communication is dysfunctionally deficient. Michael has been aware of this for some time but stasis prevails. ...

*You may not be aware but the confronting situations and issues daily would not be tolerated by DET, Worksafe or Union if they were aware, ...*⁴¹⁰

- 5.46 Mr Taylor advised that he received many complaints from staff and that he had concerns for the safety of the students and staff at BSHS:

The CHAIRPERSON: I guess did you have concerns for the safety and duty-of-care aspects?

*Mr Taylor: Of course. Yes, absolutely. That is why I worked with the occ health and safety reps. When I first got to Balga high school, there were certainly very strong rumblings that the staff were going to walk off site, quit, whatever. There was a huge up-swell of concern and angst about the behaviour of the Balga Works kids.*⁴¹¹

⁴¹⁰ Letter from Melissa Gillett, DET, 18 December 2007, Appendix 23, Email from Adrian Brand to Melissa Gillett, Merv; Gary Taylor; tubby; patcarver; cooky, 23 August 2006.

⁴¹¹ Gary Taylor, Deputy Principal, BSHS, *Transcript of Evidence*, 1 November 2007, pp10.

- 5.47 Mr Lennox advised the Committee that in his view, the BWP was not fulfilling what it was initially purported to be fulfilling, which was to educate and care for these children.⁴¹²
- 5.48 Private evidence received by the Committee from former employees and students involved in the BWP relayed incidents of the operation of the BWP that exemplified the concerns noted above. For example (see also paragraphs 4.56 to 4.64):

Witness H: *Before I went, we wanted to know if I was going to get my year 10, and he said -*

Witness G: *“Oh, definitely.”*

Witness H: *And then about November they told us that we had not done the right work, that they had not given us the right work to do our year 10 -*

Hon PETER COLLIER: *I am not quite sure what you mean by “doing your year 10”.*

Witness G: *Well, they could not pass their year 10 certificate. They would not get anything - any recognition for having completed year 10.*

Hon PETER COLLIER: *To move into senior secondary.*

Witness G: *To go up, yes. So if he had left then he would not have had anything that said he had passed year 10.*

...

Witness G: *There was no basic education program at all. There was a little bit of maths and a little bit of English, I think - like, “Let’s find a worksheet, give them a worksheet; they can fill that one out and that’ll keep them busy.” That is how it appears to me now that I - it was pretty devastating to find out that he was not going to get his year 10, and then when I tried to contact Michael Carton, of course, he would not answer his phone - ever, ever, ever - and there was no way of getting through to him, but then they employed a couple of the teachers and I went in and saw them. I think, being one of the few children who had parents there, it was pretty unusual for a parent to come in, and I went in and they said they had started them going through the TAFE mature-age year 10 program, and [name deleted]*

⁴¹² Stephen Lennox, Supervised Bail Coordinator, Perth Children’s Court, *Transcript of Evidence*, 24 September 2007, p11.

by Committee] *did that over the summer holidays, which was pretty hard for him to cope with too, because he went to school while his other mates were not at school.*⁴¹³

And:

Hon KEN TRAVERS: *What programs were actually running at the school at that stage?*

Witness J: *You mean after June? The art program. The thing is that when we were at the school, there was very little structure, so as much as we would try really hard to get the students to actually participate in stuff, there was no structure and there was no way. We just could not get them to do it. I remember in the morning for some reason they were not eating breakfast at the accommodation before they left, so when they came down, the staff organised a room where they would have breakfast. They would get them doing little worksheets at least. There was no structure and the kids just felt that they could do what they wanted, because any time we tried to discipline them, it just did not work.*⁴¹⁴

And:

Hon PETER COLLIER: *What would the kids do during the day?*

Witness D: *What would they do? Just run amok. We were chasing them for school. They were going off school grounds. I chased a pimp away from one of the girls at the school who was giving her drugs for sex. Michael knew that.*

...

Hon PETER COLLIER: *I was aware that there was a degree of disorganisation in terms of the mechanics of the operation of the program but I was not aware that it was that parlous, I must say. As I understood it, I was led to believe that these kids were engaged in nationally accredited programs -*

Witness D: *Absolutely not.*

Hon Peter Collier: *- as in VET-endorsed programs.*

⁴¹³ Session 7, *Transcript of Evidence*, 11 September 2007, pp3-4. (private evidence)

⁴¹⁴ Session 1, *Transcript of Evidence*, 24 September 2007, p6. (private evidence)

Witness D: *Absolutely not.*

Hon PETER COLLIER: *I am sorry; I am not disagreeing with you; I am just saying that that is what I thought Balga Works was.*

Witness D: *Balga Works was meant to be a holistic program. It was meant to help drug and alcohol counselling; it was meant to have accommodation, education and skills-based coaching All that gamut of people - if the structure had been there, it could have been a fantastic program, and that is how he got the funding. But it was never run like that. When I first went there in December, I thought he was an idiot. I thought that he was a guy with a great idea but he does not know how to manage staff and he does not know what he is doing.*⁴¹⁵

THE P & C

- 5.49 As previously stated, the BWP was a cooperative project between the BSHS, the P & C and a private service provider.
- 5.50 The P & C was a supporter and an advocate of the program and it assisted the service provider in sourcing funding for the BWP.
- 5.51 The P & C involvement in the BWP began in 2004, when it assisted in the establishment of the BWP by applying for \$40 000 grant funding in August 2004 from the Office of Crime Prevention for the initial planning phase of the program (see paragraphs 2.59 to 2.61).
- 5.52 The P & C was acting as an intermediary for monetary payments and donations between BSHS and Hurson. Payments from BSHS were receipted to the P & C main account and then out to Hurson.⁴¹⁶
- 5.53 Mr Mynard advised the Committee that membership of the P & C included key members of the BSHS management staff including Mr Hammond, the Registrar of BSHS who was also Treasurer of the P & C and Mr Taylor:

Mr Mynard: *Then Balga Works had its own management committee, which was also a subcommittee of the P&C and also had its own separate bank account. We were trying to get greater accountability of any funds that were coming through and it was a management committee made up predominantly of those in the school. By that time*

⁴¹⁵ Session 4, *Transcript of Evidence*, 11 September 2007, pp10-11, (private evidence).

⁴¹⁶ Audit and Risk Management Directorate, DET, *Audit Final Report on Balga Senior High School P & C*, 23 July 2007, p4.

Gary Taylor had come on board, so he was a prime focus - he would have got most of the minutes, I think.

Hon PETER COLLIER: *Who else was on that management committee, do you remember?*

Mr Mynard: *Jon Cook took the chair, he was the vice president of the P&C, Gary Taylor, Merv, myself and anybody else we needed at the time. That was pretty much the crux of it. There were a couple of others, but I cannot think who they were.*

Hon SHEILA MILLS: *I refer to the subcommittee. Who was the Treasurer? Who handled the accounts for that committee?*

Mr Mynard: *It ran through the P&C Treasurer, Michelle Green, which became an issue too. It is another one we will get to.*

Hon PETER COLLIER: *Was Michelle Green on the management committee?*

Mr Mynard: *No, not directly. At that time it seemed to be an advantage to have the school registrar as P&C Treasurer and, at one time, the assistant registrar was also my secretary. It was fairly tight knit, but, as I said, everybody was working for the common goal. There did not seem to be an issue.*⁴¹⁷

5.54 Payments for the accommodation component from the DCD were going directly to the P & C and then on to Hurson.

5.55 Mr Mynard, advised the Committee that as a result of confusion surrounding the funding for the BWP coming in and out of the P & C, in an effort to achieve greater accountability, a sub-entity of the P & C known as Balga Works was formed in November 2005 specifically to manage the BWP, with the purpose of establishing a bank account separate from the P & C main account:

Hon KEN TRAVERS: *What was the reason that you created the separate entity at that point?*

Mr Mynard: *At that time people, and even I, were getting confused about some of the money that was going through the P&C, through to MITS, Hursons or whoever. There seem to be a bit of confusion there.*

⁴¹⁷Keith Mynard, *Transcript of Evidence*, 24 September 2007, p5.

The CHAIRPERSON: *Can you elaborate on what was causing that confusion?*

Mr Mynard: *It was simply coming through as donations when, really, it was the education program and it ended up going through as the construction of the shed. It seems to be a sticking point now. In essence, it was an education program for the kids because they were doing their learning and the construction was really a secondary part, or bonus part, of it. The concentration was on getting the kids some skill.*⁴¹⁸

5.56 The sub-entity arrangement continued until concerns were raised by the Treasurer and President of the P & C.⁴¹⁹

5.57 The P & C loaned Hurson some \$51,500 for the BWP. The Committee notes that as of 1 July 2006, 5 percent of all revenues received to the P & C Balga Works account was to be retained by the P & C as a contribution to it for its services, and was to be the means by which the debt to the P & C was to be repaid.⁴²⁰ Mr Mynard advised:

Mr Mynard: *Well, sort of like a management fee. It was a way of trying to recoup some of the money that Balga works owed the P&C. That was part of the bigger vision, too. Okay, we will go into that, then. If you looked at the bigger vision, you would have a P&C that, if this program was still running, would have a million bucks going through its account each year, and if you were retaining five per cent to give back to the school and spend on the kids, Balga Senior High would have been one of the best schools around the place. It would have been a win-win situation.*⁴²¹

5.58 The DET Internal Assurance Directorate audited the P & C in 2007. The findings of the audit were provided to the Committee. The audit report found that:

- i) the financial statements of the P & C were not reliable;
- ii) many of the transactions of the P & C relating to the BWP did not have supporting documentation, receipts or invoices; and

⁴¹⁸ Ibid, pp5-6.

⁴¹⁹ Audit and Risk Management Directorate, DET, *Audit Final Report on Balga Senior High School P & C*, 23 July 2007, p4.

⁴²⁰ Balga Works Management Committee, Minutes of Meeting, Thursday 3 August 2006.

⁴²¹ Keith Mynard, *Transcript of Evidence*, 24 September 2007, p14.

- iii) large sums of money donated by the BSHS to the P & C does not appear to have been used for the purpose intended.⁴²²

Committee comment

- 5.59 The Committee notes the activities of the P & C in relation to the BWP included sourcing funding, acting as an intermediary for the monetary payments between the BSHS, the DCD and Hurson, and lending money.
- 5.60 The Committee is of the view that the P & C, being an incorporated not for profit organisation, was pivotal to the operation of the BWP at BSHS. Use of the P & C enabled money to be channelled from BSHS to the private provider without appropriate DET scrutiny.
- 5.61 The Committee has only obtained minimal information regarding the activities of the P & C in the BWP. The Committee has not undertaken a detailed investigation into the role of the P & C.
- 5.62 The Committee notes that the overwhelming majority of the Executive of the P & C were involved with the BWP and most were employed at BSHS. The Committee finds that the P & C did not operate with sufficient autonomy from the BSHS and was compromised by conflicts of interests.

Recommendation 7: The Committee by a majority (comprising Hons Giz Watson, Peter Collier, Sheila Mills and Helen Morton MLCs) recommends that the Western Australian Council of State School Organisations Incorporated prohibit school employees who are members of a Parents and Citizens Association to also be signatories of the Parents and Citizens Associations bank accounts.

Minority Recommendation: The minority of the Committee (Hon Ken Travers MLC) recommends that consideration be given by Western Australian Council of State School Organisations Incorporated to prohibit school employees who are members of a Parents and Citizens Association from being signatories of the Parents and Citizens Association bank accounts.

⁴²² Letter from Keith Newton, A/Deputy Director General, Schools, DET, dated 23 August 2007, Attachment.

Recommendation 8: The Committee recommends that the Government ensure that a detailed investigation be undertaken by the appropriate authorities into the role and activities of the Balga Senior High School Parent and Citizens Association Inc in relation to the Balga Works Program.

CHAPTER 6

REFLECTIONS ON THE BALGA WORKS PROGRAM

- 6.1 The BWP closed in October 2006, approximately two years after it began. The Committee in its inquiry has learnt that problems and issues were being experienced with the program at all levels almost from the very beginning, with the problems escalating until its closure in 2006.

WHY THE BWP FAILED

- 6.2 It is Mr Michael Carton's view that the program failed due to poor planning, governance, lack of funding, and that it was not a multi-agency approach:

*Mr Carton: It went off the rails because of planning, because of governance, because of funding and it was not a multi-agency approach that was taken. I think it should have always been an NGO program - a non-government organisation - that was able to deliver and manage a program like this. It was in the wrong hands right from the beginning. It should never have been private. There should never have been a private provider in there for the simple reason that we are here today: a private provider does not fit within that framework. Unless you step into the corrective services-AIMS type of arrangement, I do not know how it works with private providers. NGOs have certainly got the expertise and there are a lot of good people who can work in it. Ideally, it should have started and stayed with NGOs.*⁴²³

- 6.3 Mr Michael Carton further advised that he tried to do too much and failed:

*Mr Carton: I was asked just before about a program to deliver these needs. I think one of the big problems with the program was someone like myself who tried to do all things for all people, and I certainly failed miserably in what I did. There are much better people out there who could do an immeasurably better job than what I did and I will leave it at that.*⁴²⁴

- 6.4 The Committee has come to the conclusion that the failure of the BWP can be attributed to a number of factors, the main ones being:

⁴²³ Michael Carton, *Transcript of Evidence*, 22 October 2007, p27.

⁴²⁴ Ibid, p28.

-
- a) inadequate planning;
 - b) lack of sound management;
 - c) poor financial management;
 - d) lack of adequate budget controls to ensure sufficient funding;
 - e) the people managing the program lacked the appropriate experience and expertise in behavioural management of young people;
 - f) the program expanded beyond what was initially planned and articulated;
 - g) the DET does not have a research and development capability for an innovative process in its operational structure for piloting an innovative program; and
 - h) the program was established and continued to operate without approval from the Minister and Director General. This resulted in a mixed message about its legitimacy.

NEED FOR THE PROGRAM

6.5 The Committee notes that despite all the concerns raised and the difficulties encountered in the operation of the BWP, which at times seemed so bad that the program ought to have been closed, the staff working within the program kept the program going. The needs of the young people to whom the BWP was aimed seemingly outweighed any difficulty encountered, including for many staff not being paid wages, and being subjected to violent and threatening behaviour. As stated by Mr Taylor:

***The CHAIRPERSON:** Did you at any time feel that the program ought to be shut down, that it had got to a point where -*

***Mr Taylor:** Many times, yes; many times. It was not my call, but when I saw the good things that were going on for those kids, you just could not do it. You could not do it. You had to push through whatever difficulties there were, and even the Balga high school staff recognised that. There were some really good things going on for some of those kids, and some wonderful success stories - the sorts of things I wish the paper would, you know, get hold of and produce - kids who were foetal-dependent on heroin, had been all their lives, had come to school to dry out, ending up with jobs, full-time permanent jobs out of the program. I mean, there were some wonderful success stories. So, you look at that and you balance that up against the difficulties. Like my time at Girrawheen. You do not*

*close the school down because you are facing difficulties with a number of kids. You work with those kids and the parents, and you fix it up. I mean, I had never come across anything like this, even though I had worked very closely with a number of programs for highly at-risk kids. This was a whole different level again, and you just had to do it for the kids. You just had to keep going for the sake of the kids that were benefiting from it.*⁴²⁵

- 6.6 The rapid expansion of the BWP is a testimony to that fact that the BWP was a much needed program. The failure of the BWP has highlighted the increasing need for such programs in Western Australia. The Committee notes the comments of the DCD and the DOJ:

Hon HELEN MORTON: *I am just interested in the kind of need for that sort of a program that you identified at the time that you were entering into it. Now, you did not have any panel tenders or contracts then, did you? So, you were identifying that this was an organisation that provided a service that you needed for your kids and young folk?*

Mr Glew: *At that time there were a number of different agencies that provided placement services. These kids were kids that were very hard to place.*

Hon HELEN MORTON: *So, it was difficult to place them into the other placement -*

Mr Glew: *Yes.*

Ms Barnett: *Mmm.*

Hon HELEN MORTON: *- services and somehow or another this service offered you something that you did not have anywhere else - is that -*

Mr Glew: *Exactly.*

Hon HELEN MORTON: *Is that need still there?*

Mr Glew: *Yes.*

Hon HELEN MORTON: *Is it an increasing need?*

Mr Glew: *Well, yes. Placements are extremely hard. You are probably aware that we have had a 20 per cent increase in kids in*

⁴²⁵

Gary Taylor, Deputy Principal, BSHS, *Transcript of Evidence*, 1 November 2007, pp10-11.

care over the past 12 months. It is a trend that we do not believe will drop in the immediate future. Of course, placing those kids becomes extremely hard. We are in a position at the moment - you would be aware - under the Ford Report we are going to do a series of group homes; first-level residential care. These kids would not be suitable for even that type of program. So, we would have to be looking at other types of programs. I mean, there has been money that has come into the department of child protection but, once again, there has been unprecedented growth in the number of kids that are in care at the moment.

Hon HELEN MORTON: But, you are not talking about 20 per cent growth in these types of kids, or are you talking about 20 per cent growth in these types of kids?

Mr Glew: We are talking about a proportionate increase -

Hon HELEN MORTON: Yes, okay.

Mr Glew: - so, we would have had this cohort of kids. If you look at a 20 per cent increase, then you will find that there is a cohort of kids within that 20 per cent that will certainly fit into this same category of client.

Hon HELEN MORTON: What is happening to those kids in the absence then of having anything like the Balga Works program? Where are they, when they are not there?

Mr Glew: We are trying to work a variety of arrangements at the moment where they are placed in foster care or they are placed in some sort of supported accommodation. We are trying to do it so that we minimise the number of placements. Sometimes it is hard. That is one of the reasons that this panel contract we are talking about now, and which we will finalise very shortly, will also provide a wrap-around service for those kids that are really at the high end. If I may, the "high end" involves a significant amount of cost per client.

Hon HELEN MORTON: Obviously, more so than a - I do not know what you would call, how you talk about "degrees of difficulty" with the children or youth you are talking about, but the higher the degree of difficulty the higher the cost?

Mr Glew: Yes; because you have all the add-ons that come as well. You are looking at 24-hour care and you obviously need accommodation. You just cannot put them into normal

*accommodation elsewhere. There are also the psychologists and psychiatrists; all the add-on costs that go with the client.*⁴²⁶

And:

Hon HELEN MORTON: *I was just wanting to know what sort of pressure is on your agency to find placements. If I recall rightly from the budget papers, the numbers of young people coming into corrective services is increasing at a rapid rate, and so I am just really interested in what pressure there is for you to find places.*

...

Mr Robins: *You are right in terms of - there is an increasing number of young children that are either coming into custody or coming into remand, or being remanded in custody for longer periods. Peter can quote figures better than I can, but the number of young people that are being placed under supervised bail has increased significantly over the past couple of years.*

Hon HELEN MORTON: *The percentage of children on supervised bail has increased to try to meet the demand?*

Mr Logan: *The percentage of young people being placed on supervised bail has increased to reflect the changes in how the court actually grants young people bail, to reflect the increase in the young people being brought into custody due to changes in police practices, to arguably reflect the changes in how the state addresses young people who have had issues and circumstances and been subject to the failure of other systems. Interestingly enough, the state provides 164 custodial beds in the metropolitan area for young people, and provides 35 accommodation beds through the DCP. That maybe reflects the onus that we put on how we address young people.*

Hon HELEN MORTON: *Is that enough?*

Mr Logan: *No.*

Hon HELEN MORTON: *So there is pressure on you to find an alternative way?*

⁴²⁶

Stephen Glew, A/Executive Director, Resource Allocation, Department for Child Protection, *Transcript of Evidence*, 12 November 2007, pp22-23.

Mr Robins: *There is a pressure, and the pressure is more in terms of the needs of young people; I mean, in terms of custodial environment versus a community environment. So, yes, the pressure is in terms of trying to meet the needs of young people; being provided with the best possible option for them. As for supervised bail, it is rather than putting them in a secure facility before they have even been sentenced is to look at options to enable them to remain in the community and minimise the potential impact that being in custody can have. So, yes, there is an increased pressure in terms of trying to meet that demand.*

Mr Logan: *But certainly, there is no pressure in terms of releasing people into the community on supervised bail because we do not have the bed capacity to actually accommodate them. By nature, our department is quite cautious, and we need to ensure - and especially since and after our experiences with Balga Works, as much as there was no long-term negative impact that we can measure on the young people that actually participated in that program, but there is a degree of caution, but, as my colleague stated, the pressure to release young people is based on issues of social justice, rather than anything else.*⁴²⁷

Committee comment

- 6.7 The experience of BWP has highlighted what is required for such a program to be successful. This includes proper planning, a solid overarching structure, strong leadership and management, adequate funding and strong accountability and monitoring processes. It also requires the collaboration of all government agencies involved.

*To achieve a holistic wrap-around service for children requires an ongoing across government commitment from all relevant departments in providing an integrated service which can also meet the needs of individual children.*⁴²⁸

- 6.8 The deficiencies of the BWP must be noted and learnt from.
- 6.9 The Committee is of the view that the concept of Balga Works has value and such a program is desperately needed.

⁴²⁷ Peter Logan, Manager, Supervised Bail and Diversion, Rangeview Remand Centre, and Steven Robins, A/Director, Juvenile Custodial Services, Department of Corrective Services, *Transcript of Evidence*, 19 October 2007, pp26-27.

⁴²⁸ Letter from Cheryl Barnett, A/Executive Director, Metropolitan Services, Department for Child Protection, 28 November 2007, Attachment, p2.

- 6.10 The Committee notes that the Swan Works Program position paper was presented to the DET Corporate Executive for approval in June 2005. The program was never approved.⁴²⁹
- 6.11 The Committee in its inquiry has heard a range of views on the adequacy of training and financial management support in schools. The Committee is concerned that a lack of adequate financial management support and training could lead to similar system failures such as those experienced at the BWP in any school in Western Australia.
- 6.12 Given the unique circumstances surrounding the establishment and operation of the Balga Works Program, the Committee believes that the DET, the DOJ and the DCD should ensure that all former employees of the BWP, who can demonstrate their claims for outstanding wages and superannuation, be reimbursed.

RECOMMENDATIONS

Recommendation 9: The Committee recommends that the Government establish as a matter of priority, a program for disengaged youth that provides appropriate education and vocational training along with integrated accommodation and life skills support.

Recommendation 10: The Committee recommends that the Department of Education and Training reviews the financial management support provided to schools. This should include adequate training for Business Managers, Registrars, Principals and Deputy Principals on the financial management practices of the Department of Education and Training.

Recommendation 11: The Committee by a majority (comprising Hons Giz Watson, Peter Collier, Sheila Mills and Helen Morton MLCs) recommends that the Government reimburse all former employees of the Balga Works Program, who can demonstrate their claims for outstanding wages and superannuation.

Recommendation 12: The Committee recommends that the Government examine whether it has any recourse to recoup monies including outstanding wages and superannuation from any individual or company and their directors involved in the management of the Balga Works Program including Mr Hammond, Mr Michael Carton and Hurson Pty Ltd.

⁴²⁹ John Garnaut, District Director, Swan Education District, DET, *Transcript of Evidence*, 10 October 2007, p30.

Recommendation 13: The Committee recommends that the Government provide assistance and support in the form of a debriefing and counselling to the people affected by the Balga Works Program and that in six months time the Government report back to the Legislative Council on its actions.

Recommendation 14: The Committee recommends that the Government identify the young people who were enrolled in the Balga Works Program and ensure that they are able to access educational and employment assistance to the level promised by the Balga Works Program.

Recommendation 15: The Committee recommends that the Department of Education and Training review the adequacy of its capacity to facilitate the resourcing and establishment of innovative initiatives within schools.



Hon Giz Watson MLC
Chair

Date: 29 May 2008

APPENDIX 1

LIST OF STAKEHOLDERS TO WHOM THE COMMITTEE WROTE

APPENDIX 1

LIST OF STAKEHOLDERS TO WHOM THE COMMITTEE WROTE

Name	Position	Date
Hon Mark McGowan MLA	Minister for Education and Training	16/07/07
Hon Sue Ellery MLC	Minister for Child Protection	16/07/07
Mr GA Crisp	Liquidator, RSM Bird Cameron Partners	16/07/07
Hon Margaret Quirk MLA	Minister for Corrective Services	21/08/07
Hon Joe Hockey MP	Commonwealth Minister for Employment and Workplace Relations	22/08/07

APPENDIX 2
LIST OF WRITTEN SUBMISSIONS RECEIVED

APPENDIX 2

LIST OF WRITTEN SUBMISSIONS RECEIVED

No	Submission	Date
1	Private	undated
2	Private	04/08/07
3	Private	03/08/07
4	Private	undated
5	Private	undated
6	Private	undated
7	Private	undated
8	Private	21/08/07
9	Private	undated
10	Private	31/07/07
11	Private	10/08/07
12	Private	04/08/07
13	Private	undated
14	Private	10/08/07
15	Hon Mark McGowan, Minister for Education and Training	
	1 st Submission	09/08/07
	2 nd Submission	29/08/07
	3 rd Submission	August 2007
	4 th Submission	18/09/07
	5 th Submission	21/09/07
	6 th Submission	03/10/07
	7 th Submission	24/10/07

No	Submission	Date
	8 th Submission	26/11/07
16	Private	undated
17	Private	undated
18	Hon Sue Ellery MLC, Minister for Child Protection	13/08/07
19	Private	undated
20	Bob Padmanabham	undated
21	John McQuay	14/11/07
22	Thomas Sturt	16/11/07

APPENDIX 3
LIST OF WITNESSES

APPENDIX 3

LIST OF WITNESSES

Witnesses	Date
Session 1 - Witness A Private	11/09/07
Session 2 - Witness B Private	11/09/07
Session 3 - Witness C Private	11/09/07
Session 4 - Witness D Private	11/09/07
Session 5 - Witness E Private	11/09/07
Session 6 - Witness F Private	11/09/07
Session 7 - Witness G and Witness H Private	11/09/07
Session 8 - Witness I Private	11/09/07
Session 1 - Witness J Private	24/09/07
Keith Mynard Former President Balga Senior High School P & C	24/09/07
Stephen Lennox Supervised Bail Coordinator Perth Children's Court	24/09/07
Trevor Sprigg MLA Member for Murdoch	24/09/07
Sue Gordon Magistrate Perth Children's Court	04/10/07
Bhupathy Padmanabham Chinni Padmanabham	04/10/07
Gary Hodge	04/10/07

Witnesses	Date
Leslie Flaherty Brooke Stone Accommodation Pty Ltd	04/10/07
Jonathon Cook Principal Meta Ink	04/10/07
Michael Thorn former Director of the Office of Crime Prevention	10/10/07
Mark Carton Balga Senior High School	10/10/07
John Garnaut District Director, Swan Education District Department of Education and Training	10/10/07
Robert Somerville Director, Aboriginal Education and Training Department of Education and Training	15/10/07
Peter McCaffrey Deputy Director General, Finance and Administration Department of Education and Training	15/10/07
Steve Robins, A/Director Juvenile Custodial Services Peter Logan, Manager, Supervised Bail and Diversion Department of Corrective Services	19/10/07
Keith Newton Deputy Director General, Schools Department of Education and Training	19/10/07
Michael Carton	22/10/07
Gary Taylor Deputy Principal, Balga Senior High School	01/11/07
Mervyn Hammond Former Principal Balga Senior High School	07/11/07

Witnesses	Date
Cheryl Barnett, A/Executive Director, Metropolitan Services Sue Renshaw, A/ Executive Director Policy and Planning Steve Glew, A/Executive Director, Resource Allocation Department for Child Protection	12/11/07
Melissa Gillett Deputy Principal Balga Senior High School	03/12/07
Mr Peter Bass Manager, Perth Indigenous Co-ordinator Centre Department of Families, Housing, Community Services and Indigenous Affairs	25/02/08
Michelle Green Business Manager Balga Senior High School	17/03/08
Mr Gerald Borger District Finance and Administration Officer, Swan Education District Office Department of Education and Training	27/03/08
Christine Annear former Registrar Balga Senior High School	27/03/08

APPENDIX 4
RESPONSES TO ADVERSE FINDINGS

APPENDIX 4

RESPONSES TO ADVERSE FINDINGS

Letter to Mr Robert Sommerville, Director, Aboriginal Education and Training, DET



STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Mr Robert Sommerville
Director
Aboriginal Education and Training
Participation and Achievement Standards Directorate
Department of Education and Training
Level 2
151 Royal Street
EAST PERTH WA 6004

13 May 2008

Dear Sommerville

Preliminary Findings

I refer to the Standing Committee on Estimates and Financial Operations (Committee) inquiry into the Memorandum of Understanding between Balga Senior High School and Manufacturing Industry Training Services Pty Ltd.

The Committee advises that it has made the following preliminary comment against you:

Adverse Comment 1

1.1 Given the tone of the meeting with Minister Carpenter (in August 2004) and the Minister's clear objection to the project proceeding, the Committee is of the view that Mr Hammond, Mr Carton and Mr Sommerville would have been aware that it was not appropriate to proceed with the program.

Invitation to Comment on the Committee's Comment

Pursuant to Standing Order 330(g) the Committee advises you of its preliminary comment and provides you with an opportunity to respond to this comment by **5:00pm on 20 May 2008**.

Please note that you should not publish or disclose the Committee's draft comments to any person other than your legal counsel, relevant departmental staff or your Minister.

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Estimates and Financial Operations Committee

Page 2

Yours sincerely



Hon Giz Watson MLC

Chair

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Response from Mr Robert Sommerville, Director, Aboriginal Education and Training, DET



Department of Education and Training
Government of Western Australia

Doc ref:

Our ref:

Imp ref:

Hon. G Watson MLC
Chair
Standing Committee on Estimates and Financial
Parliament House
PERTH WA 6000



Dear Chair

Thank you for the opportunity of replying to the adverse finding that the Committee has found against me, Mr Michael Carton and Mr Merv Hammond with regard to a meeting that occurred with Minister Carpenter in August 2004.

I put to the Committee that I am not satisfied that such a finding is correct and that it fully takes into consideration the evidence that I supplied to the Committee with respect to the meeting in question that occurred between the then Minister for Education the Hon. Alan Carpenter MLC and one of the Directors of the Manufacturing Industry Training Scheme (MITS), Mr Michael Carton that was organised by Mr Gary Hodge (the then Chair of the Crime Prevention Council) at which I was present representing the then Deputy Director General of Schools Ms Margaret Banks.

The purpose of the meeting in question was for Mr Carton to put to the Minister a proposal for the MITS to conduct its program at Balga Senior High School and seek funds from the Minister to implement said program. The Minister stated that he fully supported any concept that aimed to re-engage Aboriginal youth especially when the end goal was employment. However the proposition that MITS provided to the Minister at the meeting was too expensive and the Minister did not support the proposed budget.

The Minister at no time gave a direction nor indicated in any way that the pursuit of a program of this nature was not worthwhile or inappropriate. He did not state or infer that a program with the same goals as the MITS program could not be incorporated into a school. He was however not supportive of the expensive proposal put forward by MITS.

Therefore it is reasonable to assume that Mr Hammond could pursue the conduct of a similar program at Balga Senior High School as long as it was cost effective. As Director of Aboriginal Education and Training it is also reasonable to assume that I would also support such a notion.

151 Bevil Street, East Perth Western Australia 6004

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The program that was implemented by the Balga Senior High School was to my understanding not the MITS program but an Aboriginal youth support program called Balga Works that used MITS to provide expert consultancy in establishing the program.

I re-iterate that the Minister gave no direction nor did he infer that such a program could not be implemented he was however clear that he did not support MITS conducting the program within the cost structure that was presented to him at the meeting that occurred in August 2004.

It is my understanding that the Balga Works proposition that Mr Hammond implemented was a school-based program to which the MITS provided some expert advice and therefore reflected the expectations of the Minister from the meeting discussed earlier.

I therefore believe that my conduct was appropriate and within due diligence expected of a public officer and the finding against me is both unfair and incorrect.

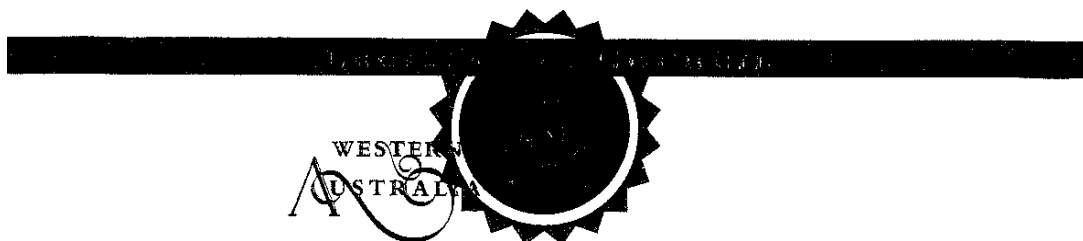
Yours sincerely



ROBERT SOMERVILLE AM
DIRECTOR
ABORIGINAL EDUCATION AND TRAINING

19 May 2008

.....

Letter to Mr John Garnaut, District Director, Swan Education District, DET**STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS**

Mr John Garnaut
District Director
Swan District Education Office
Department of Education and Training
18 Blackboy Way
BEECHBORO WA

13 May 2008

Dear Mr Garnaut

Preliminary Findings

I refer to the Standing Committee on Estimates and Financial Operations (Committee) inquiry into the Memorandum of Understanding between Balga Senior High School and Manufacturing Industry Training Services Pty Ltd.

The Committee advises that it has made the following preliminary comments against you:

Adverse Comment 1

- 1.1 The Committee is of the view that due to the unusual circumstances facing Balga Senior High School at the time, that:
- once it was determined that Balga Senior High School required assistance the District Director should have had a direct role in the appointment process (of the Supplementary Deputy Principal); and
 - Mr Garnaut should have maintained an ongoing and active role in ensuring that the issues faced by Balga Senior High School were being addressed as a result of the additional resources being provided.

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Adverse Comment 2

- 1.2 The Committee notes that the Balga Works Program was allowed to be implemented as a school based program by the District Director, even though he was aware of the problems facing the Balga Senior High School at that time.

Invitation to Comment on the Committee's Comments

Pursuant to Standing Order 330(g) the Committee advises you of its preliminary comments and provides you with an opportunity to respond to these comments by **5:00pm on 20 May 2008**.

Please note that you should not publish or disclose the Committee's draft comments to any person other than your legal counsel, relevant departmental staff or your Minister.

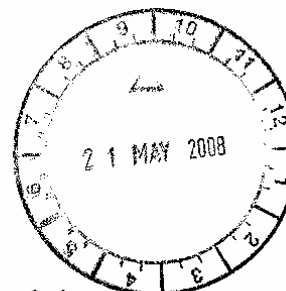
Yours sincerely



Hon Giz Watson MLC
Chair

Note that this document (including any attachments) is privileged. You should only use, disclose or copy the material if you are authorised by the Committee to do so. Please contact Committee staff if you have any queries.

Response from Mr John Garnaut, District Director, Swan Education District, DET



Adverse Comment 1

1.1 The Committee is of the view that due to the unusual circumstances facing Balga Senior High School at the time, that :

- once it was determined that Balga SHS required assistance the District Director should have had a direct role in the appointment process (of the supplementary Deputy Principal).

Response

The District Director did have a direct role in the appointment process of the supplementary Deputy Principal Position as a panel member. Other panel members included the BSHS Principal Merv Hammond and an experienced level 6 Principal Lorraine Hams. The process was consistent with Public Sector Standards.

Adverse Comment 1

1.1 The Committee is of the view that due to the unusual circumstances facing Balga Senior High School at the time, that :

- Mr Garnaut should have maintained an ongoing and active role in ensuring that the issues faced by the Balga Senior High School were being addressed as a result of the additional resources being provided.

Response

It is difficult to respond to this because of the lack of specificity in relation to issues.

My diary and journal records indicate my pro-active, ongoing, often daily role in addressing school issues in relation to the BWP in a wide range of issues including complaints, support for school improvement and quality assurance.

From July 2005 a supplementary Deputy Principal was allocated to the school to support the principal in building capacity in middle management and leadership. The position was not established to support the BWP. I did play an ongoing and active role in relation to this resource through regular meetings with the officer, the establishment of a documented work plan, and regular monitoring of this work plan. I provided personal advice and support to the officer in relation to his role, and ensured he had access to professional learning opportunities.

In semester one 2005 the school was implementing the school based BWP. I had no evidence of the financial management concerns that were to emerge later in the year. Some semester one issues related to the late payment by DET of monies owed to the school, but these were rectified through the support of the district office Manager

Operations. The school was, according to information provided to me by the Principal, running the program within its own resource base.

When additional resources were agreed to for the BWP I was assertive and immediately put into place a range of appropriate controls which included :

- a transparent formula for resource allocation
- direction to G Taylor (supplementary Deputy Principal) to implement accrual accounting process for all school programs, i.e clear plan, budget
- enrolment reporting through the district office Manager Operations
- end dated the above formula staffing to end of 2005, as trail period, with need to reapply for 2006
- agreement with the Director HR that either the Director HR or District Director could review this process at any time
- requirement of an annual report.

I believed that this was a responsible set of accountability requirements which was way beyond the expectations of other school programs. It enabled program control, continuation of the program to the end of the year (avoiding dumping of high risk students), and the potential for program closure at the end of 2005, or transition to the more resource intensive Swan Works Program which was being planned in semester one 2005. I was awaiting response to the proposal to implement the Swan Works Program from June 2005.

In October 2005, I requested my FAO review concerns relating to financial management of the BWP. In November 2005 I reported a range of serious concerns to the DG, and set up the BWP Directors Investigation Reference Group to oversee and support the management of system investigations and interventions for the identified concerns, which included reporting the concerns through the DET Complaints Management Unit to the Crime and Corruption Commission.

From the time that serious financial management concerns had been identified with the BWP, I actively ensured support for the school. I instructed the district office Finance and Administration Officer to work directly with the school Principal and registrars as a priority to support school financial management and ensure processes were consistent with DET policies and procedures. I ensured comprehensive follow-up and support for the school in relation to audit findings. The BSHS administration and registrar received significantly more support from district officers than any other school in the Swan District.

In my experience, the volume of support was sufficient to bring about the required improvements. Hindsight indicates that significant improvement did not occur until Merv Hammond retired, and a new Principal was appointed. The volume of support was sufficient to bring about the improvement required with the new Principal.

As the 2005 year unfolded, many issues were emerging at BSHS that required District Director intervention. During this 2005 period, my quality assurance processes at BSHS

were exceptionally comprehensive, and included numerous reports and directions to the principal. This included in 2005 three school review visits, 3 level two grievances against Hammond, a forced transfer of a staff member due to irreconcilable relationship breakdown with Hammond, a special survey and report on school processes for communication, decision making and staff health and well being, and a review and a report on critical incident management.

August 2005 in particular, when I identified the need for intervention in the BWP, was a very stressful time for the school and a period of high intensity quality assurance. In August/Sept 2005, as indicated in my school QA reports, I identified and sought reform of school processes in the following areas :

From 2 level 2 grievance processes (against the principal by staff)

- review school complaints management policy. Poor processes were causing tension amongst staff at the school
- implement code of conduct PD for all staff in response to a number of concerns re staff behaviour
- implement health and welfare review of the school (staff); in response to many staff complaints about school operations, including school decision making and communication processes
- review school union branch processes which were in disarray and causing tension in the school

Staff health and well being review

Report identified serious staff concerns with school operations including :

- staff morale
- school decision making processes
- school communication processes

Review of school processes in managing critical incidents

Serious concerns were identified. I had the Manager Student Services lead a review of school processes. This was important for a school like BSHS, where critical incidents were frequent.

All of this was occurring at the same time as I initially identified concerns with the BWP. Arguably at that time (August 2005), BWP problems were part of bigger concerns in relation to whole school operations and school sustainability.

Adverse Comment 2

1.2 The committee notes that the Balga Works Program was allowed to be implemented as a school based program by the District Director, even though he was aware of the problems facing the Balga Senior High School at the time.

Response

It is common practice, and encouraged, for Principals to plan and commence school based programs to meet the specific needs of students at the school.

I was not aware that the BWP was being implemented in 2004, and did not approve the BWP as it was implemented from the beginning of 2005.

I had previously instructed the principal (late 2004) not to start the more resource rich (MITS) program, which the Principal and others had been planning throughout 2004, until there was system satisfaction with planning. I was assured by the principal that he was simply implementing a school based program, within school resources, for at risk students.

With the benefit of hindsight (and later audits, November 2005), it is apparent that the principal had commenced the Program in 2004, and did not respond to the direction in late 2004 not to implement until the system was happy with planning.

At the time of commencement of the school based program, there was no indication that the school would not be able to manage it. I had identified concerns in relation to middle management at the school, but my experience indicated that with the reforms that I had recommended through quality assurance and performance management processes that the improvement would occur.

Letter to Ms Sharyn O'Neill, Director General, DET**STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS**

Ms Sharyn O'Neill
Director General
Department of Education and Training
151 Royal Street
EAST PERTH WA 6004

13 May 2008

Dear Ms O'Neill

Preliminary Findings

I refer to the Standing Committee on Estimates and Financial Operations (Committee) inquiry into the Memorandum of Understanding between Balga Senior High School and Manufacturing Industry Training Services Pty Ltd.

The Committee advises that it has made the following preliminary comments and findings against the Department of Education and Training:

Adverse Comment 1

- 1.1 The Committee is of the view that the audit process of schools and their programs by the Department of Education and Training is ad-hoc and in this instance was inadequate in identifying issues with the Balga Works Program, particularly the large expenditure being paid by the Balga Senior High School to MITS and Hurson for service delivery.

Adverse Comment 2

- 1.2 The Committee notes that the Investigation Reference Group focus was on the Memorandum of Understanding and the financial management of the Balga Works Program, not on the performance of the service provider. The Investigation Reference Group did not inquire into the educational abilities of the service provider or the performance of the service provider on the ground.

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- 1.3 In allowing the Balga Works Program to continue, the Investigation Reference Group recommended restrictions be placed on the resourcing of the Balga Works Program and directed that the program be wound back. Further performance management of Mr Hammond was to continue with additional support to be provided by the deputy principal and from the district finance and administration officer.
- 1.4 The Committee notes that this decision was made despite the fact that Mr Hammond had made it clear to the Investigation Reference Group that more funding was required and that Balga Senior High School no longer felt able or appropriate to accept the responsibility for the Balga Works Program mounting financial accounting and accountability demands.
- 1.5 The Committee is of the view that the Investigation Reference Group decided to keep the Balga Works Program running without implementing any real change to address the problems identified. Of most significance, both Mr Hammond and Hurson were allowed to continue to run the Balga Works Program. The Committee is of the view that the additional support provided by the deputy principal and from the district finance and administration officer was not an adequate response to address the severity of the problems identified.
- 1.6 The Committee can find no evidence that shows that the issues identified in the audits were addressed or resolved by the Investigation Reference Group or how it was intended they be resolved. This includes the overexpenditure on Balga Works Program versus its income, the large payments made to Hurson, the negative bank balance of the Balga Senior High School, and lack of adherence to Department of Education and Training protocols.
- 1.7 The Committee is of the view that the response of the Investigation Reference Group to allow the program to continue as long as Department of Education and Training contractual requirements were met and a framework for operations established, indicates that there was a failure to recognise the seriousness of the problems being experienced with the Balga Works Program.

Adverse Comment 3

- 1.8 The Committee notes that the Department of Education and Training whilst aware of the problems were referring all complaints (from Balga Works Program staff in relation to unpaid wages) to Mr Hammond to resolve. The Committee is of the opinion that the Department of Education and Training was avoiding taking responsibility for this problem and did nothing to assist the complainants prior to June 2006.

Adverse Comment 4

- 1.9 The Committee notes that there was discrepancy between enrolment numbers and attendance records (for the Balga Works Program).
- 1.10 The Committee notes that Hurson was controlling the attendance records not the Balga Senior High School.

- 1.11 The Committee notes that in 2005 there was no verification undertaken of student attendance in the Balga Works Program. SIS records were showing 100 percent attendance due to a default position in the computer program.
- 1.12 The Committee notes that the funding to the Balga Works Program was based on enrolment numbers and attendance by the students.
- 1.13 The Committee notes the Department of Education and Training failed to ensure adequate verification of the enrolment and attendance records for the Balga Works Program from the time of its commencement.
- 1.14 Due to the discrepancies in the enrolment and attendance figures, the Committee does not have confidence in the accuracy of the enrolment numbers on which funding was based.
- 1.15 Therefore, the Committee finds that the Department of Education and Training was negligent in its failure to ensure adequate verification of the enrolment and attendance records (of the Balga Works Program) and this was a significant failure in their financial management practices.

Adverse Comment 5

- 1.16 The Committee is of the view that the Department of Education and Training is also responsible for the failures (of the Balga Works Program) for the following reasons:
- i) its complicity in providing funding for the program in an ad-hoc manner and without proper accountability mechanisms or due diligence;
 - ii) its ineffectiveness in responding in an appropriate and timely manner despite overwhelming evidence of the issues being faced by Balga Senior High School and Balga Works Program throughout the life of the program. In particular, the response of the Investigation Reference Group at the end of 2005 was inadequate;
 - iii) its ineffectiveness in managing Mr Hammond.
- 1.17 The Committee has concerns with the process for the appointment of a supplementary deputy principal to provide additional support for the Balga Senior High School. The Committee believes that the Department of Education and Training should have taken greater responsibility for this appointment rather than leaving Mr Hammond to control the process.
- 1.18 The Committee finds that the Department of Education and Training responses to the Balga Works Program issues were inadequate and the additional support provided did not resolve the problems.
- 1.19 Further, the Committee finds that the Minister for Education and Training was not fully informed through the briefing notes provided in relation to the Balga Works Program

Adverse Comment 6

- 1.20 The Committee notes that neither the Principal nor the Investigation Reference Group sought to establish the ability or expertise of Hurson Pty Ltd.
- 1.21 The Committee is of the view that the Investigation Reference Group should have followed up on this matter when it was raised in the Burgess Report of December 2005 and before recommending the continuation of the Balga Works Program in 2006.

Invitation to Comment on the Committee's Comments and Findings

Pursuant to Standing Order 330(g) the Committee advises you of its preliminary comments and findings and provides you with an opportunity to respond to these comments and findings by **5:00pm on 20 May 2008**.

Please note that you should not publish or disclose the Committee's draft comments and findings to any person other than your legal counsel, relevant departmental staff or your Minister.

Yours sincerely



Hon Giz Watson MLC
Chair

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Response from Ms Sharyn O'Neill, Director General, DET

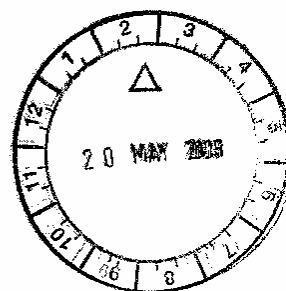
Department of Education and Training
Government of Western Australia

Your ref:

Our ref: DO08/218720

Enquiries:

Hon Giz Watson MLC
Chair
Standing Committee on Estimates and Financial Operations
Parliament House
PERTH WA 6000



Dear Ms Watson

PRELIMINARY FINDINGS

I refer to your letter dated 13 May 2008 on the above, and provide the following response ('Response').

General Response

1. Before addressing the preliminary comments and findings of the Committee ('Comments'), the Department of Education and Training's position is that, given the general wording of the Comments, it appears the Committee has not fully considered:
 - (a) the previous comprehensive and open Submissions, along with numerous supporting documents, made to the Committee by the Department;
 - (b) a school is a devolved operational unit that must have a degree of autonomy in order for the State school system to function;
 - (c) the day to day management of a school is the responsibility of the Principal:
 - (i) section 63 of the *School Education Act 1999* provides that it is a function of the principal of a school to, amongst other things:
 1. provide educational leadership in the school; and
 2. be responsible for the day to day management and control of the school, including all persons on the school premises;
 - (ii) principals have delegated authority for certain financial matters including entering into contracts for the supply of goods and services up to \$20 000 in value.
 - (d) the effect of the Principal circumventing policies, processes and practices of the Department in establishing and managing the Balga Works Program;
 - (e) the Program commenced on the basis of the Principal's undertaking that the Program would operate within the resources of the School;
 - (f) the Principal, Carton and some members of the P&C, conducted themselves in a manner that was at best inappropriate:
 - (i) see the Department's First Submission, in particular paragraph 28 onwards and instances as outlined in paragraph 31, where the School, through the Principal donated money to the P&C, which was in turn on-paid to Carton or others.

151 Royal Street, East Perth, Western Australia 6004

- (g) Carton's involvement and conduct in the Program, should be viewed in the light of his personal history and how he dealt with the provision of accommodation and other services:
 - (i) the accommodation arrangements and other services by Carton through Hurson were the responsibility of Hurson.
- (h) the Department was not or could not have been in a position in late 2005 or early 2006 to simply wind up the Program and place the students in alternative programs:
 - (i) the Department endeavoured to ensure that the youth at risk in the Program were not disadvantaged by decisions about the Program.

Specific Response

2. The Department's specific response to the Comments follow.

Adverse Comment 1

3. The Department's audit processes are not ad hoc. Audits are a means of identifying risk or failure to adhere to proper practice after the event. The Department's audit did this:
- (a) the School Audit Program is part of the Audit and Risk Management Branch's Quality Assurance Program. The specific audit objectives of the School Audit Program are: to review the schools' financial and administrative systems examining compliance with policies and the adequacy and effectiveness of internal controls; and
 - (b) to test whether risk management and business continuity programs are in place.
4. The planning process is risk-based and includes consultation with key stakeholders. The risk variables applied to prioritise schools for audit include: complexity; total revenue; key school staff changes; and length of time since prior audit. Approximately 200 of 799 schools are audited each year. High risk schools are audited more regularly. Each year all schools not selected for audit are required to complete a Control Self Assessment Questionnaire. The Balga Senior High School was audited in 2002 and again in 2006.

Adverse Comment 2

5. The Investigation Reference Group was established in November 2005 following disclosure to the Department that the Principal had signed a Memorandum of Understanding without the authority or knowledge of the Department ('MOU Disclosure'). At that stage the Principal and Carton had been running the Program for some 10 months. At this time the quality of the Program was not in issue and the Principal continued to advocate that the Program was highly beneficial for the youth at risk participating in the Program.
6. As to paragraph 1.3:
- (a) restrictions were placed on the Principal and the Program for the purpose of monitoring monies being paid out for the Program. The School was required to verify the claims before paying them;

- (b) after the MOU Disclosure concerns about the financial management of the Program began to emerge. In the circumstances, the Investigation Reference Group required that, pending further consideration:
 - (i) the Principal make no further contractual or financial arrangements for the Program;
 - (ii) staffing levels be re-negotiated; and
 - (iii) the Principal and School Registrar assist with further examination of the Program finances.
- (c) the Investigation Reference Group, with what was known at that time about the Program:
 - (i) supported the Principal's desire to continue the Program, but on the basis that support for was for Semester 1, 2006 only; and
 - (ii) concluded that December 2005 was too late to put in place alternative Semester 1, 2006 school options for those in the Program.

7. As to paragraph 1.4:

- (a) the Department disputes that, in November or December 2005, the Principal had made it clear to the Investigation Reference Group that the School no longer felt able to accept responsibility for the financial accountability demands;
- (b) on 7 December 2005, following the MOU Disclosure and in the midst of concerns about financial arrangements of the Program, the Principal stated in a memorandum;
 - (i) *"as the Program develops a shared funding basis with its external agency participating partner, which we anticipated occurring in 2006 it is inevitable that the financial accounting demands of the Program will grow I therefore recommend a new Balga Works Registrar, to be fully funded by the Program, with no provisional imperatives or requirements on the Swan DEO and DET..."*
- (c) the Principal was continuing to support the Program and that it would be run without additional resources for the Department because the Program would be receiving support from other sources;
- (d) further, it is difficult to reconcile what weight should, at the time and now, be given to the concerns of the Principal, when the Principal commenced the Program on the basis that it would be run within existing resources of the School.

8. As to paragraph 1.5:

- (a) with the benefits of hindsight it may have been poor judgement to allow the Principal and Carton to continue to be involved with the Program but at this time the full extent of the failures of the Program were not known;
- (b) the full extent of the problems with the Program did not become apparent until after the Deputy Principal and others became involved with the Program in Semester 1, 2006.

9. As to paragraph 1.6:

- (a) the Department appointed additional staff to monitor financial arrangements of the Program, examined enrolment and attendance figures provided by the School among other things, subsequently wound the Program up and commenced a discipline process for the Principal.

10. As to paragraph 1.7:

- (a) the Committee itself acknowledges by its paragraphs 1.3 and 1.5, the Department did not simply focus on the contractual requirements. The framework for operations related to the Program as a whole;
- (b) the extent of the problems of the Program resulting from its establishment and management by the Principal and Carton was not appreciated until 2006. The Principal and Carton, along with members of the P&C, continued to represent to the Department the benefits of the Program and assert that it was financially viable.

Adverse Comment 3

- 11. The Department denies that it avoided taking responsibility for complaints about the Program and did nothing to assist the complainants prior to 2006. Generally, the complaints received related to operational and wages payments that required verification by the School before a response to the complaint could occur.
- 12. The complaints about failure to pay wages were matters that needed to be managed by the School. Firstly, the School paid Hurson to deliver the Program. Secondly, the School was the entity that was in a position to verify whether the service was provided for the Program and who provided that service.
- 13. As set out in the Department's Third Submission, a significant number of the complaints received related to the failure of Hurson to pay its debts to its staff or related to the accommodation.

Adverse Comment 4

14. As to paragraph 1.9:

- (a) the Department reviewed enrolment and attendance figures in Semester 1, 2006 evidenced by the document dated 23 March titled "Balga Works Program - Review of Student Attendance" ("Review"). The Review examined attendance records for weeks commencing 20 February 2006, 27 February 2006, and 13 March 2006;
- (b) the Department again reviewed enrolment and attendance figures in 2007 and identified a significant drop off of student numbers and serious over-reporting of attendances.

15. As to paragraph 1.10:

- (a) it is acknowledged that Hurson was controlling the marking of attendance records and providing these to the School, but this was not known at the time. The School provided the enrolment and attendance records to the District Office and Central Office;

- (b) the School did not disclose that it had neither entered nor verified the records. It is established practice that, in providing enrolment and attendance figures to Central Office, the Principal and School are responsible for their accuracy.

16. As to paragraph 1.11:

- (a) it is impractical for the Department to verify all records entered by a school;
- (b) the Department's system, in accordance with commonly accepted logical and efficient practice, is that absences are entered rather than attendances.

17. As to paragraph 1.12:

- (a) the funding of the Program, as with all school funding, factors in enrolment numbers. Attendance does not necessarily affect funding because enrolment is the basis for the establishment of classes. A class will still be delivered if there are absences. If a student no longer attends because they have ceased in the Program then that student's enrolment will be removed. Upon significant changes in enrolments then the delivery of the class will be reviewed.

18. As to paragraph 1.13:

- (a) the Department disagrees with this finding, verification of enrolments and attendances is a School matter. Notwithstanding this, reviews of attendance were undertaken;
- (b) a system that requires external verification of enrolment or attendance on a daily basis would be unworkable, excessively costly and inefficient.

19. As to paragraph 1.14:

- (a) the Department agrees with the Committee finding and this was the reason the Department conducted examinations of the enrolment and attendance figures in 2006 and 2007.

20. As to paragraph 1.15:

- (a) the Department denies that it was negligent; enrolment and attendance are school based operations; the Principal and the School were responsible and are required to accurately enter and maintain enrolment and attendance records. The examinations by the Department identified this was not occurring.

Adverse Comment 5

21. The Department objects to this Comment and believes it cannot be substantiated on the facts available to it. The Department was not responsible for the failure of the Program and to suggest this is the case is a misunderstanding of the situation.

22. The Principal and Carton, with the assistance of certain members of the P&C, commenced and managed what was in effect an unsustainable Program. The Principal and Carton factored in additional sources of funding into the running of the Program, which did not eventuate. Further, the true cost of the Program was not recognised by the Principal upon the commencement of the Program. The Department may have failed to appreciate the facts as quickly as it should have, but this did not contribute to the failure of the Program, if anything it contributed to its continuing in 2006 for longer than it should have.
23. The Department attempted to support the Program, in circumstances manipulated by the Principal, Hurson and some members of the P&C. It is within these circumstances that the Principal, Hurson and the P&C continued to disingenuously portray the Program.
24. As to paragraph 1.17:
- (a) the Principal did not control the Process, he was the chair of the selection panel that was central to the appointment of the Deputy Principal. The District Director also sat on the selection panel as did another principal. The Deputy Principal was appointed in accordance with the Department's human resources policies for the appointment and or promotion of staff.
25. As to paragraphs 1.18 and 1.19:
- (a) the Program commenced on the basis that it would be run using School resources. The information flow from the School about the Program was such that it limited the Department's ability to firstly be aware of a number of issues, and secondly allow it to respond comprehensively.

Adverse Comment 6

26. As to paragraph 20:
- (a) the fact that Hurson was not an RTO was disclosed in the body of the Burgess Report in a statement made by Carton. This fact was overlooked by the Department.
27. As to paragraph 21:
- (a) the Department was not aware in late 2005 of significant problems with the conduct or veracity of the Program. The clear focus of the Investigation Reference Group was to examine issues arising from the claim made by RSM Bird Cameron liquidators alleging the existence of a contract between the School and MITS and a claimed debt of almost \$2 million. The Principal continued to be supportive of the Program and did not suggest there was cause for concern about the quality of the Program;
 - (b) Carton's involvement with the Program was not apparent until after November 2005. Even then the full extent of his involvement was not disclosed to the Department;
 - (c) in determining to give qualified support to the continuation of the Program for 2006, the Investigation Reference Group was mindful of the impact that cancellation of the Program at the end of 2005 would have on the participants and the difficulty associated with making alternative arrangements to accommodate the special needs of the youth at risk in the Program.

Conclusion

Thank you for the opportunity to comment on the Committee's preliminary findings. If you require any further assistance on this matter please do not hesitate to contact me.

Yours sincerely



SHARYN O'NEILL
DIRECTOR GENERAL

20 MAY 2008

APPENDIX 5

OVERVIEW OF THE EDUCATION COMPONENT⁴³⁰

⁴³⁰

Extract from the Tender document attached to the Fifth Submission from the DET, September 2007, Attachment E. This is in similar terms to that contained in the Balga Works Programme Business Plan of the Balga Works Program, April 2006.

APPENDIX 5

OVERVIEW OF THE EDUCATION COMPONENT

TIMELINE

Transporting to Balga SHS: Shuttle Bus from 8:00 am (private provider)										
Mentor Group at Balga SHS: 9:00 am to 9:15 am (Breakfast Program available)										
Education and Training Program: 9:00 am to 3:10 pm (Partnership between Balga SHS and private provider)										
Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6	Stage 7	Stage 8	Stage 9	Stage 10	
Refer to BWP Progression Model for Markers for Trade, Academic, Social and Engagement										
School day consists of: Literacy, Numeracy, CGEA, Life-skills, Health and Fitness, Art Therapy, Metal Trades, Workshops										
Stages 1-4: Students are expected to participate in Community Skills Development Program				Stage 5-6: it is voluntary for students to participate in the Community Skills Development			Stage 7-10: Swan TAFE (Balga Campus) Building and Construction			
							Try a Trade Program on school site – one day per week	Trade Selection Program at Balga TAFE Campus – two days per week	School Apprenticeship Link or Pre-apprenticeship – 2 days per week	Pre-apprenticeship or Apprenticeship
Community Skills Development Program: 3:30 pm to 5:30 pm – Monday to Thursday each week										
Football development	Soccer development	Basketball development	Self-defense	Boom room and Hip-hop						
Department, fashion and design	Art, photos and framing	Sewing, cooking and domestic skills	Yoga, surfing and volleyball	Driver training						
Community participation encouraged but not limited to the previous programs provided										
Transport to transfer points, private residences, PCYC (Balga) or Joondalup: up to 11pm										

PROGRESSION MODEL

Stage	Markers Trade	Markers Academic	Markers Social	Markers Engagement
	Skill Assessment ITP	Skill Assessments IEP	Skill Assessments IBP	Regular Engagement
1			Participate in Community Skills Development Program	
2	Low Level Basic Skills	Foundation/ Cert 1 Literacy Numeracy	Considerable social issues High Level Support Participate in Community Skills Development Program	Regular/Erratic attendance Behaviour and Performance sheets 70% engaged
3	Low Level Basic Skills	Cert 1-2 Literacy Numeracy	Some social issues Medium Level Support Participate in Community Skills Development Program	Regular attendance Behaviour and Performance sheets 70% + engagement
4	Medium Level Skills	Cert 1-2 Literacy Numeracy	Reducing social issues Participate in Community Skills Development Program	Consistent attendance Behaviour and Performance sheets 75% + engagement
5	Medium Level Skills	Cert 2 Literacy Numeracy	Reducing Social Issues	Consistent Attendance Behaviour and Performance sheets 75% + engagement
6	Cert 1 Skills being demonstrated High Level Skills		Cert 2 Literacy & Numeracy	Attends 100% except with medical certificate Behaviour and Performance sheets engage rate 85% +
7	Cert 2 commenced TAFE Try a Trade program on school site – one day per week.		Nominal Social Issues Independent workers	100% Attendance Behaviour and Performance sheets 90% + engagement
8	Cert 2 and Work Placement TAFE selection program at Balga Campus – two days per week with rolling intake.		Nominal Social Issues Independent Workers	100% Attendance Behaviour and Performance sheets 95% + engagement
9	Cert 2 Work placement TAFE – School Apprenticeship Link (2 days) or Pre-apprenticeship		Minimal Social Issues Independent	100% attendance Behaviour and Performance 95% + engagement
10	Work placement (Pre-apprenticeship or apprenticeship) Ongoing trade training		Minimal Social Issues Independent	100% attendance Behaviour and Performance 95% + engagement

Schedule of Services Provided by HURSON PTY LTD Pty Ltd in 2006 to the Balga Works Program

Service	Detail
Literacy and numeracy	Provision of resources to engage students in the development of literacy and numeracy skills in accordance with all stages of the Progression Model.
Art therapy	Provision of resources to engage students in the exploration of feelings, emotions and issues influencing their current state of being. Expansion of art skills in all stages of the Progression Model.
Trade skills	Provision of staff and materials to engage students in developing trade-based competencies in preparation for stages 6-10 of the Progression Model.
Behaviour Management	Provision of resources to work with teaching and training staff in the management of challenging behaviors exhibited by many of the target group of students. Aimed at improving both academic and social outcomes for the students.
Work skills	Provision of resources to develop skills and understandings to enhance the prospects of gaining sustainable employment outcomes.
Mentoring	Provision of resources to guide students through the BWP and into sustainable employment.

APPENDIX 6

**BRIEFING NOTE FROM THE MINISTER FOR EDUCATION AND TRAINING,
DATED 2 AUGUST 2004**

APPENDIX 6

BRIEFING NOTE FROM THE MINISTER FOR EDUCATION AND TRAINING, DATED 2 AUGUST 2004



ATTACHMENT 2

Department of Education and Training
Government of Western Australia

Your ref:

Our ref: 67869-DO04/140902

Enquiries:

RECEIVED
3 AUG 2004

BY:.....

MINISTER FOR EDUCATION AND TRAINING

SWAN EDUCATION DISTRICT PROPOSED PROCESS FABRICATION, MANUFACTURING AND MINING INDUSTRIES VACATIONAL EDUCATION AND TRAINING PROJECT

Background

Attached is a project proposal prepared on behalf of Balga Senior High School and Manufacturing Industry Training Services (MITS), a company which provides training services in Victoria. The document has been prepared by Mr Gary Hodge in his capacity as a private consultant. The project proponents are seeking support to:

- locate a training/mentoring program at Balga Senior High School;
- target disadvantaged youth in a district to provide training, family support and employment opportunities; and
- link the initiative to the *Youth Advantage Strategy*.

Funding is sought to the extent of \$2.2 million in 2005, rising to \$8.5 million. The proposal indicates that 135 students would participate in the first year rising to 450 by the third year.

Issues

While the concept for the project has merit and may warrant consideration for broader application, the following needs to be addressed:

- the costing and budget implications of the project are significant. Under the Department's funding of accredited training services through the Competitive Allocation of Training (CAT) and User Choice this proposal would absorb up to 35% of the available funds. The average cost per place would be \$17 000. By comparison the average cost for Metals and Mining courses funded by CAT is \$2 500 per place;
- the procurement of training is subject to State Supply Commission policies. Costs over \$50 000 must go to open tender; and
- the proposal needs to be considered as part of the Swan Education District's Education and Training Plan for 2005. It has not been forwarded to or considered by the District as yet.

Recommendation

It is recommended that the Minister:

- note the initiative; and
- refer the proposal to the Department of Education and Training for further analysis and evaluation. In particular the initiative needs to be considered as part of a District Education and Training Plan.

MARGARET BANKS
R/DIRECTOR GENERAL

Att.

Q 2 AUG 2004

NOTED

- 4 AUG 2004

JOHN A. CARPENTER, MLA

151 Royal Street, East Perth, Western Australia 6004

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Foreword

This report presents a case for new approaches to the issue of early school leaving in Western Australia.

Specific attention is given to young people at risk of disengaging from learning and/or sustainable employment opportunities, entering the juvenile justice system or who are already in the juvenile justice system and who are at risk of re-offending in the future.

The approach advocated is based on international and national research evidence¹ and best practice, and as such combines:

- the reforms of **Youth Advantage**, the State Government's policy for education and training for 15-19 year olds;
- combination interventions such as MultiSystemic Therapy (MST) and others to address intergenerational issues that keep young people from effective and sustainable participation in education, training and employment;
- mainstream, specialist and private sector education and training providers who have a demonstrated record of both engaging and achieving successful outcomes (including job placements that embrace integration, generational and over-coming cultural barriers) and that meet the needs of the participants and employers;
- effective, long-term mentoring programs that build on earlier combination interventions; and
- governance arrangements and accountabilities that cross traditional agency and district boundaries to address the needs of at-risk young people when there is demonstrated benefit in doing so.

Anthony King in his paper commissioned by the Dusseldorp Skills Forum (DSF) ***The Cost to Australia of Early School-Leaving***² observes 'one of the acclaimed policy successes of the 1980s was the striking increase in school retention rates. At the start of the decade, just 35 per cent of school students were continuing on to Year 12. By 1992, this figure had more than doubled to 77 per cent. The increasing trend has, however, since stalled and is in fact now showing signs of a decline.'

In 2004, Western Australian has current retention rates standing at 71.3%³ and in a number of schools within education districts across the State, the retention rate is below 45%.

Internationally, Australia currently ranks 21st on the list of 32 OECD countries in the percentage of 24-34 year olds completing a Year 12 or equivalent qualification.

The successful completion of a quality and meaningful Year 12 qualification is a significant benchmark for the achievement of individual, community and societal benefit, with inherent risks attached for those who fail to do so. International and national research papers cited in this report demonstrate this conclusively.

The benefits and the risks have been recognised by the State Government and in response, it has put in place comprehensive and systems-wide policy objectives to address the issue of early school-leaving.

¹ Specific research papers and sources are cited in the Executive Summary (see page 7) and the body of this report

² Dusseldorp Skills Forum, National Centre for Social and Economic Modelling University of Canberra, October 1999

³ Source: Department of Education and Training 2004

It has recognised that new, innovative and sustainable approaches are required.

The **Swan Education District Process Fabrication, Engineering, Manufacturing and Mining Industries Vocational Education and Training Project** proposal contained in this report addresses the following State Government priority policy objectives as well as introduces new levels of innovation in meeting the needs of young people at risk:

- **Youth Advantage** (Government priority to maximise the effective participation of 15-19 Year Olds towards the attainment the Western Australian Senior Certificate, and/or AQF level 111 or full-time work) (Draft 3 May 04);
- **Building Future Prosperity – Creating Jobs and Wealth through Industry Development** (creating fair and equitable opportunities for all Western Australians to enjoy the rewards of a vibrant economy) (January 2004); and
- **the Gordon Inquiry Into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities** (established January 2002) (examination of how the Public Sector of Western Australia is dealing with – or may in the future deal with the critical issue of family violence and child abuse in Aboriginal Communities).

The proposal also responds to key findings of the report **Western Australian Development Projects: Employment Demand and Predicted Skill Requirements 2003-2007**⁴ in which it is identified that strong demand is predicted for skilled workers in the following occupations:

- project and construction management;
- mechanical, electrical and civil engineering;
- mining, metallurgy and process engineering;
- estimating, planning and project control staff;
- piping, mechanical, electrical and instrument designers;
- mechanical, fabrication, electrical and instrument trades; and
- mobile equipment operators and diesel mechanics.

This proposal sets out first and foremost, to meet the education and training needs of 15-19 year old students in the Swan Education District, with an emphasis on those at risk.

While an employment outcome is a major objective, the most pressing are to ensure that all young people in the Swan Education District complete their schooling and that the current retention of rates, particularly of those most at risk, are lifted in line with State Government education and training policy objectives for 15-19 year olds (current State average retention 71.3% - Swan Education District 60.1%).

⁴ Department of Education and Training (Argus Research) April 2004

In implementing the proposed program, there is the capacity to contribute substantially to the immediate and future skills requirements of the process fabrication, engineering, manufacturing and mining industry needs of the City of Swan and neighbouring industrial areas. The ability to link the local education and training plans of a specific school district with particular demands and opportunities presented by expansion of the State's economy is an objective of the project.

This is an achievable outcome at a micro-level under the management of skilled and capable training services providers with substantial track records of success. This requires among other approaches, a strategic approach to the supply and demand cycle, information for potential employers and effective industry networking and analysis.

In addition to occupational health and safety modules, the proposed program also equips participants with higher level job searching tools and personal skills training. Literacy and numeracy requirements are met by the host school and re-inforced in the work place or training areas.

In contributing to the labour pool in the process fabrication, engineering, manufacturing and mining industries sectors, the proposal makes a significant contribution to the City of Swan's **Foundations for the Future**, a comprehensive set of goals and objectives that provide a long-term direction for the City of Swan Region (2003).

In terms of education and training policy, the proposal puts in place actions required at a systemic level in the **Youth Advantage Plan 2004-2008**, namely:

- ensuring effective articulation of learning programs between education, training and higher education;
- creating appropriate mixes of general and vocational education that suit different individual needs;
- creating targeted programs to meet the specific needs of the various types of students who are at risk;
- addressing the core skills such as literacy, numeracy and work place readiness;
- making systemic and increased provision for a variety of learning programs (such as enterprise education and VET for school students); that the student sees as having relevance to their present and future needs;
- matching the education and training needs of 15-19 year olds to their local environment and any special needs; and
- matching the pedagogy to the needs of students, the programs being delivered and the environment in which learning takes place.

The only action not addressed at this point in time is 'make provision for 15-19 year olds in small rural communities'. However, the model presented is replicable across all communities and geographical locations.

An innovative approach based on informed research and best practice

There is a good deal of innovation contained within this proposal. This includes:

- a long-term mentoring system as an integral component of the program that supports the young person from course entry for up to 48 months or the completion of his or her registered training agreement or whichever ever comes first (a desired outcome would for this activity to be paid for by the employer. In some cases a third-party funder would need to be identified) ;
- the capacity to address entrenched intergenerational issues that can impact on a young person's capacity to learn by linking the long-term mentoring program to any future MultiSystemic Therapy initiative (MST) or other internationally-proven and appropriate combination interventions for young people that may be introduced for those in the program at severe risk or at severe risk of reoffending (see page 15);
- a highly-successful and credible private sector training provider delivering the provision of process fabrication, engineering, manufacturing and related mining industry training requirements (over the past three years achieving near 100% completion rate, employment outcomes in excess of 70% and up to 20% continuing in further education and/or vocational studies) see Business Plan Appendix One page 33);
- 1:1 technology ipod or equivalent to support the young person's access to information and training modules (for example a note book for every course entrant);
- training provided as a direct response to local business and commerce environmental scanning and the establishment of student retention and attainment targets well-above current State averages around retention and attainment;
- development of informed individual education and training plans;
- university analysis of pedagogy and management of learning materials and resources development that is recognised as currency by industry to improve effectiveness of teaching and learning;
- foundation and entry level skills to sustainable employment outcomes;
- on-going work working with industry to identify their current and projected business and new technology requirements; and
- meeting high technology industry needs to meet future skill requirements.

The components of the approach as adopted in this report are based on

- an environmental scan that establishes the education and training needs of young people and of local industry and commerce within a broader State-wide series of policy responses to current issues and responses to demands within the economy⁵;

⁵This scan also has the ability to inform an adult re-skilling program eventually providing less reliance on government funding along with many qualitative benefits such as an increased network of mentors and employers for the students

- the development of a comprehensive business plan for a specific sectors (in this case the process fabrication, engineering, manufacturing and mining) that targets the provision of high-quality training to more than 500 youths, including indigenous youth, by 31st December 2007 in the City of Swan⁶;

And if the proposal is approved:

- the development of specific targets in District Education and Training Plans that set retention and attainment targets for those most at risk;
- the development of individual Education and Training plans;
- establishment of clear accountabilities for the education and training outcomes sought; and
- establishment of independent evaluation procedures that measure the effectiveness and impact of such programs.

⁶ See page 33

Executive Summary

Current State Government policies and priorities for youth and industry development provide new opportunities for innovation based on informed research and best practice to improve the delivery of (and governance arrangements) around, the delivery of education and training services for 15-19 year olds.

Particularly for those at risk of early school-leaving.

Given the known social and economic risks associated with early school leaving⁷, a significant proportion of 15-19 Year Olds in the Swan Education District are currently at risk of long term unemployment and involvement in juvenile crime (current retention 60.1% compared to the State retention rate of 71.3%, and with four schools recording retention rates of less than 45%).

In response to this, this proposal seeks to reduce significantly this level of risk and as a secondary objective, to meet industry training needs.

The centre-piece of the proposal is a highly successful and proven program for 15-19 year olds⁸ to be run over an initial and independently evaluated three years (2005-2007). The proposal provides industry-recognised pathways to employment in the process, fabrication, engineering, manufacturing and mining Industries. There are four established elements to this program:

1. Vocational Education and Training (VET)
2. School Based New Apprenticeships (SBNA)
3. Disengaged Youth Program (DYP)
4. Apprenticeship Program

The VET component is the cornerstone program that will require immediate consent for initial consultative activities to commence in the last quarter of 2004 for a February 2005 enrolment, with all other components interdependent. The proposed program if approved will:

- actively provide training to approximately 135 students in Year One (2005) growing to more than 150 new enrollees per annum by the third year (2007)*;
- have provided training to more than 500 15-19 year olds from varied backgrounds including indigenous youth by December 2007;
- seek to achieve by 2007 a 80-90% completion rate of a nationally-recognised training qualification with a 75% sustainable placement outcome; and

⁷ see King, A. (1999) 'The Cost to Australia of Early School Leaving', The National Centre of Social and Economic Modelling for the Dusseldorp Skills Forum and Wolfe B and Haveman R, *Accounting for the Social and Non-Market Benefits of Education* paper prepared for the OECD International Symposium on the Contribution of Human and Social Capital to Sustained Economic Growth and Well-Being, 19-21 March 2000, Canada

⁸ The proposed provider, Manufacturing Industry Training Services (MITS) established in Victoria in 1996. MITS has in the last three years, achieved through innovation around pedagogy and a unique mentoring system, achieved near 100% completion rate on accredited courses, employment outcomes in excess of 70% and up to 20% continuing in education and/or further vocational studies, largely with young people at risk

* see funding note under Recommendations page 10

- have significant positive effects on the lives of the young people involved and on their communities.

The generic skilling arising from this program provides the students with pathways into a wide range of industry sectors in addition to the process, fabrication, engineering, manufacturing and mining industries (see page 25).

Resource requirements

The above programs while interdependent from their respective pathways to the achievement of meaningful outcomes, have facility, infrastructure and financial requirements that are provided in the current Departmental compulsory or post compulsory funding arrangements.

Direct costs that are related to employment outcomes and sustainability will require cooperation and some funding at a participation level but it is expected these areas will not require additional infrastructure or capital investment.

Notwithstanding the preceding statement, the Government would need to provide for additional funding in areas of specialised Aboriginal support, especially in areas of paradigm changes in the longer term-generational and intergenerational issues that impede sustainable training and employment participation. A multi-agency approach drawing on such proven and effective interventions such as MultiSystemic Therapies (MST – see page 14) should leverage additional resources for this to occur and support the young people in their learning.

Figure 1.0 Student Numbers

Program commencement dates and enrolment numbers require immediate commitment for Program 1 (VET) by 16 July 2004 thus enabling the necessary operational arrangements to be put into place for a January 2005 commencement:

Program	Programs initial commencement	Yr 1 2005	Yr 2 2006	Yr 3 2007
1. Vocational Education & Training (VET)	Feb '05 (1 st Term)	40	100	190
2. School Based New Apprenticeships (SBNA)	Apr '05 (2 nd Term)	60	130	160
3. Disengaged Youth Program (DYP)	Feb '05 (1 st Term)	25	35	55
4. Apprenticeship Program	Apr '05 (2 nd Term)	10	25	45
Total		135*	290*	450*

*** Programs predominantly span more than one year, thus numbers are cumulative.**

Figure 2.0 Extracts from Pro-forma Financial Projections

	Year 1 2005	Year 2 2006	Year 3 * 2007
Number of Students	<u>135</u>	<u>290</u>	<u>450</u>
<u>Expenditure:</u>			
Salaries and on costs	1.8M	4M	7.2M
Administration and overheads	<u>490K</u>	<u>660K</u>	<u>880K</u>
	2.29M	4.66M	8.08M
MITS management charge	<u>180K</u>	<u>370K</u>	<u>650K</u>
	<u>2.47M</u>	<u>5M</u>	<u>8.73M</u>
<u>Funded by:</u>			
Corporate / Sponsorship / Partnership / Subsidies	245K	450K	600k
Projected Government Funding Required	\$2.2M	\$4.6M	\$8.2M

** As a result of students involved in partially complete MITS programs, funding would be required at least until 2009, even if the program adoption technically ceased in 2007.*

Please see Appendix 3 for full financial forecast and assumptions.

Recommendations

On the basis of the evidence of student and industry needs presented in this report, it is recommended that the DET Corporate Executive:

- commits to the cornerstone project (VET program) (as per Program 1 immediately following page 49) (\$1.003.372m)*;
- approves, subject to identification of funding, the *Process Fabrication, Engineering, Manufacturing and Mining Industries Vocational Education and Training Project* as outlined in this proposal for a period of three years (2005-2007), with any funding in the out years subject to independent evaluation and meeting of performance targets;
- notes the research evidence that for young people at risk, education and training activity works best in conjunction with multiple systemic approaches; and puts in place governance arrangements that best suit the needs of the young people in a particular district or series of districts; and
- appoints an independent evaluator and researcher to measure critical success factors and to capture learning arising from the project that has systemic application for achieving improvements in the retention and attainment of 15-19 year old Western Australians.

** Notwithstanding this commitment, the MITS project is based upon performance in achieving*

- *enrolment,*
- *participation, and*
- *outcome.*

All three of these milestones are expected to be directly annexed to a user-pay model and the expectation of a performance based structure would be negotiated and entered into by the Department and MITS.

Report Methodology

This report involved the following methodology:

- examination of seminal international and national research into the risk factors and consequences of early school-leaving;
- examination of the international literature around what interventions are effective in reducing young people's involvement in crime; and from re-offending;
- analysis of the implications of current State Government state development policies and the implications for youth education and training policies;
- analysis of the employment demand and predicted skills requirements in the (2003-2007) of Western Australian development projects *committed for construction and being considered for investment*;⁹
- an environmental scan of the City of Swan, with a specific focus on the economic and social profile of the City and the 'at-risk' population of early school leavers;
- site visits around two programs (Balga Senior High School and Manufacturing Industries Training Services Knoxfield Victoria) that have demonstrated conspicuous success over a period of time in retaining, engaging and achieving meaningful education and training outcomes for 15-19 year olds, particularly for those at risk;
- limited but targeted interviews with employers, local business associations, key local and State government policy officers, internal and external Department of Education and Training stakeholders; and
- a broad transport analysis with a view to innovating in the way in which this most critical element is approached to support student learning and job placements in this proposed program.

International and national research

Two seminal pieces of research that provide an evidence base for **Youth Advantage** (WA 2004) and Queensland's equivalent policy **Education and Training Reforms for the Future** (2002) are cited:

1. King A. (1999) in **The Cost to Australia of Early School Leaving**, (The National Centre of Social and Economic Modelling for the Dusseldorp Skills Forum); and
2. Wolfe B and Haveman R, **Accounting for the Social and Non-Market Benefits of Education** paper prepared for the OECD International Symposium on the Contribution of Human and Social Capital to Sustained Economic Growth and Well-Being, 19-21 March 2000, Canada.

⁹ Also referenced was the report *Economic employment forecasts for Western Australia and Australia* (Draft June 2004 National Institute of Economic and Industry Research for the Department of Education and Training)

The Dusseldorp Skills Forum (DSF) that commissioned the King paper, has in collaboration with a number of Australia's leading research organisations, been instrumental in providing a comprehensive picture of the learning and work circumstances of young Australians through published papers, major forums and the commissioning of local area environmental scans.

*The results of that collaboration are documented in two landmark reports, **Australia's Youth: Reality and Risk** (1998) and **Australia's Young Adults: the Deepening Divide** (1999).*

It became apparent from these reports that those young people leaving school early are at much greater risk of becoming trapped in marginal activity, finding no secure place in either learning or work.

The key findings of the King research were:

- *The overall cost to Australia of one year's early school-leavers is an estimated \$2.6 billion.*
- *Australia still has relatively low levels of secondary school completion.*
- *It is estimated that from each year of students going through school, 35 000 students will not complete their secondary schooling and will subsequently obtain no further formal education or training qualification.*
- *The estimated lifetime cost (discounted to 1999 terms) to the country of each early school-leaver is \$74 000.*
- *Half this cost is a direct monetary cost, borne partly by the individual and partly by government. The remaining half is a social cost which falls across the individual, government and the whole community.*
- *Reducing the number of early school-leavers would be a very sound investment for the individuals concerned, for government, and for the country as a whole. Just on the basis of the monetary costs, it would yield an estimated 12.5 per cent rate of return.¹⁰*

Haveman and Wolfe (2000) indicate that the contribution of human and social capital especially schooling to economic growth and well-being have typically focused on market outcomes, particularly labour market returns.

In this particular paper, the researchers focused on the social and non-market effects of education and argue that the effects are large, perhaps as large as the marketed effects and hence must be considered in order to correctly evaluate the optimum level of social and public sector investment in schooling.

The research identified the non-market and social effects as long, but identified in particular positive links between:

- one's own schooling and schooling received by one's children;
- schooling and the health status of one's family members;

¹⁰ King, A, Op Cit page 2

- one's own schooling and one's health status;
- one's own education and efficiency of choices made as a consumer (which efficiency has positive effects on well-being similar to those of money and income);
- schooling and fertility choices (in particular the decision of one's female teenage children regarding non-marital childbearing); and
- schooling/social capital of one's neighbourhood and youth decisions regarding their levels of schooling, non-marital childbearing and their participation in criminal activities.

Significantly, the Haveman and Wolf research indicates that *'this literature reveals that the educational attainment in one generation has positive effects on the human capital attainments of youth (including schooling, non-marital childbearing and crime related activities) in the next generation.*

Both the direct relationship of parental human capital (e.g. parental schooling) to the attainments of their children and the indirect effects through improving the human/social capital environment in the neighbourhood in which the children grow up are discussed.

The literature on the intergenerational effects of education is generally neglected in assessing the full impact of education.¹¹

Relevance of research to Swan Education District

It is therefore important in this program to recognise the entrenched intergenerational factors that mitigate against the successful participation and attainment by largely though not exclusively, the current Indigenous young people in the Swan Education District.

Current Year 12 Indigenous youth comprise only 14% of total school Indigenous enrolments and Indigenous youth are also under-represented in school-based VET enrolments.

In Tafe, Indigenous enrolments have remained static in the past five years accounting for approximately 2.8% of enrolments.

The unemployment rate for Indigenous youth is between four and five times the unemployment rate of the total population.

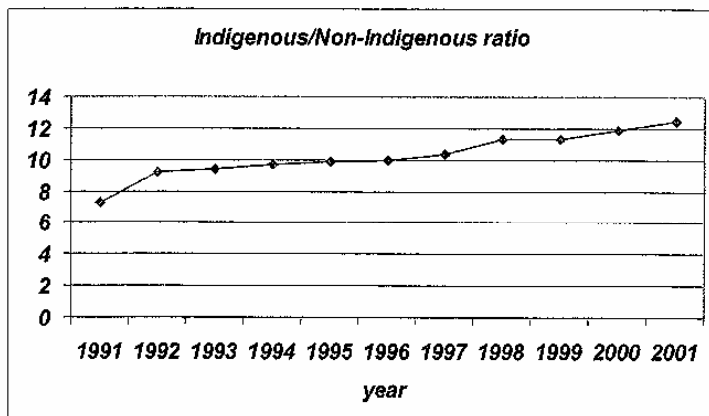
State-wide, the over-representation of Aboriginal youth in the offending population is demonstrated by the ratio of Aboriginal to non-Aboriginal juvenile arrests in the table below.

The ratio of Aboriginal to non-Aboriginal arrests rose significantly between 1991 (at 7:1) and 2001 (at 12:1). (This increase is partly a result of the decline in the rate of arrest for non-Aboriginal.)

The over-representation increases at every level of the Justice system resulting in Aboriginal young people being 65 times more likely to be in detention than non-Aboriginal juveniles¹².

¹¹ Wolfe and Haverman Op Cit; page

¹² Source: Department of Justice 2004

Figure 1¹³

Aboriginal youth aged 10 –17 years comprise only 5% of the population yet comprise 20% of the total Aboriginal offending population, further highlighting the need for appropriate early interventions¹⁴.

While data on the level Indigenous youth involved in offending specifically within the City of Swan is not available, there is reason to conclude, given the level of retention and attainment to Year 12, and the evidence in the research literature, that a significant proportion of Indigenous youth in the Swan Education District are at risk of first time offending or at risk of re-offending.

The international literature shows that there are a number of strategies and programs that can reduce young people's involvement in crime¹⁵, with one of the more efficacious interventions found in the use of an approach known as MultiSystemic Therapy (MST).

Evaluations of this program show a 25% to 70% reduction in long term rates of re-arrest.¹⁶

This model of intervention is currently used in 25 American States, Canada, England and New Zealand.

Essential features of MST are:

- Services provided in the families' natural environment – home school and neighbourhood settings;
- Low case loads, typically three to six families per officer, with teams of three to four officers;
- Daily contact with the offender, including the scheduling of appointments at the family's convenience, such as outside office hours;
- Availability of a program team member 24 hours per day/7 days per week to respond to particular crises (a peer supervision approach means that each officer is aware of the circumstances of colleagues' cases); and
- Time limited duration of intervention, typically 3-5 months per family.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ *What works in reducing young people's involvement in crime?* Australian Institute of Criminology Review of current literature on youth crime prevention (Chief Minister's Department Canberra ACT 2003)

¹⁶ Source: Department of Justice 2004

This approach establishes specialist teams work with families including siblings, with peers, educationalists and the individual adolescent to set goals. The emphasis is personal and family responsibility and capacity.

Team members provide formal counseling, cognitive behavioural programs, training on behaviour management and anger management, links to informal networks and agencies with drug treatment programs.

The known determinants of offending are targeted concurrently in the young offenders home environment avoiding the piecemeal "agency silo" approach. Change is accomplished by mobilising informal child, family and community resources that already exist in the young offenders' environment.

Offending in young people can be triggered by violent or stressful situations, through peer and family influence and boredom, as a result of reliving violence or a traumatic personal history, much of which often occur at night.

The capability to deal with these situations without offending is developed because a team member is available for the duration of the program 24 hours a day, 7 days a week. At the same time the parent or responsible adult is acquiring the skills to continue with the methodology of managing the young person.

The family's collaboration in the planning and implementation of the program interventions ensures that the culture of the family is integral to the goals that are set and the means of achieving those goals. By involving the extended family and the informal support networks of the family, reinforcement of cultural values is assured. In addition members of the cultural group are engaged as members of the intervention team to the degree this is possible.

Evaluations of MST have demonstrated:

- reduced long-term rates of criminal offending in serious juvenile offenders,
- reduced rates of out-of-home placements for serious juvenile offenders,
- extensive improvements in family functioning,
- decreased mental health problems for serious juvenile offenders, and
- favourable outcomes at cost savings in comparison with usual mental health and juvenile justice services.¹⁷

Other interventions known to be more or less effective in reducing juvenile offending include:

- social competence training;
- programs that divert from custody;
- education and employment programs;
- mentoring programs; and
- comprehensive programs¹⁸.

These types of interventions, in conjunction with other innovative elements around this proposed program need to form part of the evaluation and learning around lifting the retention and attainment rates of all young people in the State.

¹⁷ Source Department of Justice 2004

¹⁸ Australian Institute of Criminology, Op Cit, 2003

This will require a multi-agency approach with the outcomes monitored by entities such as the newly-formed Community Safety and Crime Prevention Council (CSCPC) which provides advice to Government on strategic approaches to crime prevention in consultation with the Department of Education and Training, the Department of Justice and the Department for Community Development.¹⁹

The CSCPC provides for the first time, a Cabinet-appointed Council to improve strategy, coordination and effectiveness of programs across Government with resources for research and evaluation.

¹⁹ Government agency representation on the Council is the Commissioner of Police, the Directors General of Education, Justice and Community Development, 2 nominated local government representatives, 4 community representatives, an eminent criminologist and an independent chair

State Government Policy on Education and Training: Youth Advantage Strategy

The larger systemic policy context in which proven approaches to juvenile crime prevention sit is provided by the Minister for Education and Training's major reforms to the education and training system.

Collectively, the various components of **Youth Advantage** provide an enabling policy framework that encourages local innovation and responses to meet the needs of any particular group of young people and the communities in which they live.

The following State Government's policy purpose in this regard is as follows:

The State Government's priority is to maximise the effective participation of 15 to 19 year olds. Effective participation is participation in education towards the attainment of the Western Australian Certificate of Education or participation in training towards attainment of AQF level 11 or full time work.

This means that:

- ***15 to 17 year olds will be engaged in education, training or work which has an education and training component***
- ***18 and 19 year olds who have not achieved the Year 12 or Certificate 111 will be engaged in education, training or full time work (35 hours or more)²⁰***

There are a number of policy documents produced to support the achievement of these policy objectives:

Creating the Future for Our Young People: Raising the School Leaving Age²¹ is designed to provide relevant information to parents, community and industry groups as the Minister for Education and Training undertakes State-wide consultation about raising the school leaving age.

The support for strategy and implementation has three key documents:

Youth Advantage Strategy: an overview of the policy positions, the commitment to 15-19 year olds and descriptions of components of the strategy.

Youth Advantage Strategy Plan: outlines in detail the Department of Education and Training's policies and positions, governance and details.

Youth Advantage Strategy Framework for the Development of District Education and Training Plans: The Framework provides detail about the key element of implementation, namely the creation and implementation of plans at the local level to cater for the needs of all 15 to 19 year olds.

The target group of the District Education and Training Plan is those who are at risk of disengaging before they achieve an AQF Certificate 111, the Western Australian Certificate of Education or being in meaningful work.

The ***Youth Advantage*** implementation plan quite rightly observes that systemic implementation is feasible rather than a piloting approach on the basis that there is an urgency about addressing the needs of the at-risk cohort that is apparent across the State.

²⁰ *Youth Advantage Plan* (Department of Education and Training) Draft May 2004

²¹ Government of Western Australia 2003

However, given the entrenched and complex nature of the factors that work against young people completing their schooling and completing a successful transition to sustainable employment, it is essential that consideration be given to innovation around the implementation and evaluation of a series of programs that in the first instance address the root causes.

This would mean in practice, a hierarchy of initiatives that in order of priority:

- identify those specific intergenerational impediments that prevent young people from completing their schooling on a case-by-case basis with intensive interventions that have efficacy, such as Multi-systemic Therapies and other proven interventions;
- supply where necessary of safe, accessible accommodation;
- identify those 15-19 year olds already in the juvenile justice system and at risk of re-offending in the future;
- identify those at risk of entering the juvenile justice system;
- build on existing school and industry programs that have demonstrated and ability to engage, retain and achieve meaningful learning and employment outcomes for young people at risk over an extended period of time;
- build effective networks of both public and private education and training providers, employers, and relevant agencies at all levels of Government (Commonwealth, State and local) and not for profit organisations; and
- identify pathways into areas of employment growth identified under broader state development policies and initiatives.

This may mean that a number of 'light house' areas of excellence are established across the State that encompass and target the most at-risk young people and communities in the first instance rather than attempted replication in each school.

This may mean crossing current Education District boundaries to meet the needs of these young people where there is an advantage in doing so and taking in a regional (Metropolitan or Regional) economy and culture to secure positive placement outcomes after successful addressing of intergenerational impediments and issues.

The Swan Education District could provide one such lighthouse approach, taking in referrals from across Swan and other Districts into the program as outlined in this proposal.

Linking District Education and Training Plans into State development policy

The report ***Western Australian Development Projects: Employment Demand and Predicted Skill Requirements 2003-2007***²² states that actions which can have a positive influence on the State's skill development longer term are

- school education programs,
- raising enrolment levels in science and technology courses,
- the expansion of the apprenticeship and traineeship schemes and
- a concerted effort to enhance the image of employment opportunities in trades and technical vocations on Western Australian development projects.

The proposed project addresses this action directly in an affirmative and industry-credible way.

While predicting job requirements is an inexact science, the size and scale of Western Australian development projects in the immediate and longer term future are significant to consider in the context of this proposal.

A total of 62 projects valued at \$44.2billion are *committed or being considered for investment* in Western Australia between 2003 and 2007.

35 development projects are *committed for construction* in the following industry sectors:

Figure 2 WA Projects Committed for Construction by Industry Sector²³:

Industry Sector	Number of Projects	Value \$b
Oil Gas and Chemicals	5	5.8
Mining Industry and Metals	7	5.4
Infrastructure and Non-residential building	13	4.0
Electricity Gas and Water Supply	8	1.6
Manufacturing and Shipbuilding	2	0.5
Total	35	17.4

While the process fabrication, engineering, manufacturing and related industries in Malaga, Midland, Osborne Park and Balcatta (and possibly Canning Vale) provide employment opportunities for students of this proposed program, more opportunities exist both at the site level of these development projects and with the Metropolitan and regional suppliers of goods and services to the various developments.

Strong demand in the report is predicted for skilled workers in the following occupations:

- project and construction management;
- mechanical, electrical and civil engineering;
- mining, metallurgy and process engineering
- estimating, planning and project control staff;
- piping, mechanical, electrical and instrument designers;
- mechanical, fabrication, electrical and instrument trades; and
- mobile equipment operators and diesel mechanics.

²² Department of Education and Training (Argus Research Op Cit) April 2004

²³ Source: Department of Industry and Resources WA 2004

The workforce (on site) for the 35 projects committed for construction projects is forecast to peak at 8 600 during 2004. When operational, these projects will collectively employ a permanent workforce of 1 500 by 2007.

In terms of labour market supply, there are currently 971 000 workers in the Western Australian labour market with approximately 124 000 in the labour pool of the five related industry sectors which will host the development projects.

The forecast peak committed for construction project workforce of 8 600 represents 5.8% of this labour pool. Previous studies have estimated the total number of workers engaging in the design and construction of development projects has varied between 5 000 and 6 000 in recent years.

Consequently, to meet the forecast demand, additional workers will have to be recruited from related industry sectors.

There are a number of other factors associated with these committed development projects that could impact on the availability of jobs for the next generation of workers.

These include:

- the ageing demographic of the workforce;
- the retirement of existing workers;
- skill attrition or wastage caused by qualified people leaving their trade or profession; and
- increased casualisation of employment, growth in outsourcing and use of contract workers has resulted in a reduced commitment to training, further depleting the supply of skilled workers.

The Argus Research report (April 2004) identifies that skill gaps/deficiencies are likely to become more apparent as demand increases for skilled personnel experienced in advanced welding techniques, computer aided design and optical communications technologies.

It is also expected that the growing and pervasive use of computers, computer aided design and manufacturing and information technology will generate demand for the up skilling of workers across a range of occupations.

The State Government has more than \$60 million in publicly funded training in skill areas relevant to the infrastructure/resources development sectors representing approximately 30 000 training places.

Key initiatives have included:

- an additional 1 250 apprenticeship and traineeship places each year from 2001-2006;
- up skilling programs for existing workers (eg Skill Up for the Burrup, Skilling WA);
- the Fast Track Apprenticeship Program (110 fast track apprentices currently in training)
- publicly tendered training programs in high demand skill areas; and
- more than \$40 million allocated to trades-related training facilities over the past 10 years.

The report identifies the need for, and recommends a collaborative training strategy involving industry, employers, unions and government in a shared responsibility to grow and enrich Western Australia's pool of skilled workers.

The report also recommends a number of critical components of the strategy including:

- targeting skills requirements;
- enhancing training capability;
- building a sustainable labour pool;
- retention of skilled staff in their qualified trade or profession;
- securing industry funding; and
- winning employer commitment.

At the local level this requires working with existing job placement and pathways programs, community and local government entities, utilisation of industry networks and specific marketing and information sessions for both large employers and (mining companies) and small business (suppliers of goods and services to the mining industry) to raise awareness of the availability of this new labour pool if the proposal is approved.

As outlined in the Foreword, regardless of direct employment in the process fabrication, engineering, manufacturing or mining sector, the fact that young people, and those at risk, possess a recognised and valued qualification removes a great deal of risk and that opens new opportunities.

City of Swan Demographic Profile²⁴

The City of Swan is one of the fastest growing regions in Western Australia with a diverse economic base and strong economic sectors including retailing, manufacturing, property and business services, agriculture, wholesale trade and construction.

The City also contains an established viticulture area across the Swan Valley.

The City is the fifth largest local government area by population size in the Perth Metropolitan area after Stirling, Wanneroo, Joondalup and Melville.

The cultural diversity of the City has significant implications for education and training policy.

The largest Aboriginal population of any local government in the metropolitan area of Perth resides in Swan. In 2001, 2.9% (2 365) of the City's residents identified themselves as being of indigenous origins which is higher than the Perth average of 1.5% (Indigenous people).

Approximately one-third of the City's residents (see immediately below) were born overseas and originate from over 30 different ethnic backgrounds. The highest proportions were from the nations of Britain, New Zealand, Vietnam and Italy.

With a total of 82,126 (ABS 2001 Census) representing 4.5% of the State's total population, the City had a 3.6% average annual growth since the 1996 ABS Census. In comparison the population of the State grew by 1.35% in the same period.

Between 1991 and 2001 the City of Swan's population increased from 53 100 to 82 126. Average population growth over the next ten years is estimated at 4.6%. It is expected that the population will double to 168 100 by 2021²⁵

It is projected that the City's population growth will outstrip Joondalup by 2031 and that it will become the third largest local government area by population in the Perth Metropolitan Region by 2031.

The majority of future population growth will occur in the newly developing residential areas in the north and north eastern areas of the city around Ellenbrook, The Vines and new suburbs of Egerton and Albion. Midland is also expected to see some population growth due to residential re development by the Midland Redevelopment Authority.

There is a relatively young population of the City (in 2001 25.9% of the City's population were children under the age of 15 (Perth Metro average 21.4%).

In comparison to the Perth metropolitan region, the City has notably higher proportions of children and youth aged 0-14 years and adults aged 30-39 years and lower proportions of people aged 45 years and over. There is very little difference between the number of males and females.

The Swan City Council has in its strategic planning identified the need to look at proactive employment and training opportunities for the City's future workforce.

²⁴Source: *City of Swan Economic Profile 2003: An overview of the City of Swan's economic drivers and demographic details* (Midland 2003) pp 6-10

²⁵Ibid. p 7

Average wage and taxable income

The average taxable income for residents within the City of Swan for residents within the City for the 1999/2000 period was \$32 839.

This compares with the average for the State of \$32 253.

However, the City of Swan has significantly more households than the WA average with an income of below \$299 a week while having less household with income in the brackets over \$1 500 than the WA average.

Education Qualifications and Skills Training

In 2001, 40.80% of the Swan's total residential population had left school by Year 11 or earlier and 24.7% in Year 12. Just over 2.6% of the population were still attending school and 0.8% had never attended school.

Figure 3 Age Left School by Sex – Persons Aged 15 years and Over²⁶

	Males	Females	Persons	Total %
Year 8 or below	2 092	2 120	4 212	5.11
Year 9 or equivalent	2 207	2 956	4 263	5.15
Year 10 or equivalent	8 957	9 129	18 086	21.92
Year 11 or equivalent	3 415	3 698	7 113	8.62
Year 12 or equivalent	9 744	10 657	20 401	24.73
Still at school	1 064	1098	2 162	2.62
Did not go to school	290	370	660	0.80
Not Stated	1 936	2 024	3 960	4.80
Total	29 705	31 152	60 857	73.76
Total Population				82 506

At the time of the 2001 Census, 22.5% of Swan's total population aged over 15 years had formal education qualifications.

'Certificate' qualifications comprised the largest component of people with formal qualifications in the City (13.3%) which was slightly higher than the Western Australian average of 13.1%.

However, Swan had a lower proportion of residents with Bachelor Degrees, Graduate Diplomas and Graduate Certificates and Post-graduate Degrees than the WA average.

The ABS Census revealed that 'Engineering and Related Technology' qualifications were held by the largest proportion of people 15 years and over in the City of Swan (24%).

Other significant groupings (1 600 or more) included post school qualifications in Management and Commerce (14.5%), Society and Culture (7.1%) and Health (6.6%).

Internet and computer use

A significant indicator of a community's readiness to participate in education and training is internet and computers.

²⁶ ABS 2001 Census of Population and Housing – B2

The proportion of people using a computer at home within the City of Swan, during the 2001 Census period was slightly lower (4%) than the average proportion for the Perth Metropolitan region which was 46%.

The number of City of Swan residents that use the internet at home was approximately 7% lower than the Perth Metropolitan average, which was 42%.

A proposed feature of this program is to provide 1on1 notebook computer access to every participant, overcoming a significant disadvantage and providing an individualised resource to access education and training modules that have been specially developed as support for learning.

Employment and unemployment

The total number of City of Swan residents employed in the September 2002 quarter was 39 000, representing a decrease of 1% from the March quarter when there were 39 410 people employed within the region.

The number of City of Swan residents registered as unemployed for the September 2002 quarter was 3 416 people.²⁷

The unemployment rate in the City of Swan for the June 2002 quarter was 9.0% which is considerably higher than the unemployment rate for the total of Perth (6.4%)

Process fabrication manufacturing and engineering profile of the City of Swan

The City of Swan economic and social profile is well documented by its Community Planning section and provides an example of how local government can be major partners in developing local social and economic capital.

As the manufacturing industry sector is one of the major pathways that this program leads to, specific attention has been placed here, with most process fabrication, engineering and manufacturing activity in the Malaga industrial area.

This analysis is in line with the action needs identified in the **Youth Advantage Plan 2004-2008** which states '*match the education and training of 15-19 year olds to their local environment and to any special needs*'²⁸

Manufacturing in the City of Swan is the largest sector for employment which employs 5 799 persons²⁹.

The Retail Trade sector is the second largest employing sector with 5 090 persons working in this sector.

The foundation skills provided by this program will prepare young people for employment in a range of options in existing industries within the City of Swan³⁰, including:

²⁸ *Draft Youth Advantage Strategy Plan* page 10

²⁹ 2001 Census

³⁰ Analysis of the implications of this project for the report *Western Australian Development Projects: Employment Demand and Predicted Skills Requirements 2003-2007* is found on pages 19-20

Metals

Fabrication Marine Electrical Sheetmetal Machining Welding
 Marine Fitting Mechanical Fitting Plant Mechanic Electrical Fitter
 Instrument Fitter

Automotive

Body Building Mechanic Auto Electrician Spray Painter
 Engine Reconditioner

Process Manufacturing

Injection Moulding Blow Moulding Plastic Fabrication
 Fibreglass (composites) Polystyrene Moulding

Laboratory

Mineral Assaying Process Manufacture Quality Assurance/Control
 Medical (pathology, histology, haematology) Environmental Schools
 Biotechnology Food Testing Conservation and Natural Resource Management
 Pollution Control and Waste Management

Light Manufacturing

Textiles Clothing Footwear Cabinet Making
 Aluminium/glass Furniture Manufacture

Malaga³¹

Malaga, located within the Ballajura Ward in the southwest corner of the City of Swan, is an industrial suburb providing a location for light industry, and service establishments and is designated a Strategic Industrial Area for Western Australia.

Since Malaga was established in the mid 1980's, business development has increased by an average of 58% a year. A significant increase in the number of business establishments from 49 to 809 occurred between 1985 and 1997.

Currently there are more than 1600 businesses in operation, providing employment for about 10,000 people. Malaga is Swan's second largest employment centre, behind Midland.

³¹ Source City of Swan, Op Cit, 2003

In the past decade, Malaga has undergone a shift from traditional industrial land use to mixed business.

At present, Malaga is primarily occupied by manufacturing land use developments. Other major land use developments in Malaga include 'Wholesale/Distribution', 'Automotive related', 'Retail' and 'Construction/Building' industries, areas of particular relevance to this proposal.

According to recent survey information, 'Manufacturing Related' businesses still dominated Malaga industry, accounting for 31% of all businesses.

Construction and retail tie for the second largest industry type, comprising 12.8% each in 2001, followed by the 'Wholesale' industry with 12.6%.

'Automotive related' businesses account for 11% of the business population.

Taking in the whole of the City of Swan, the Manufacturing industry claimed 12% of all businesses in Swan, as at September 1998.

As indicated above, it is ranked as one of the two largest employers by industry with 20% of the City's total jobs coming from this sector, equal with the Retail Trade sector for Swan.

Since 1996, the percentage of Manufacturing businesses within Swan has remained relatively steady, with a slight increase from 11% to 12% of the total business pool over the three-year period from 1996 – 1998 (89 new businesses).

By business counts, Manufacturing is the third most prevalent industry sector for Swan, behind Retail and Property and Business Services. However, Swan's manufacturing businesses account for 8% of all manufacturing businesses within metropolitan Perth.

Manufacturing is a stronger sector by proportion of total business counts for Swan than it is for the broader Perth metropolitan area.

There are a number of Manufacturing sub-sectors that contribute to the overall number of businesses within the Manufacturing sector.

The table below illustrates the contribution of each of these sub-sectors to the overall sector.

Figure 4 Division of employment for Swan Workforce working in the Manufacturing Sector³²

Machinery and Equipment	20%
Non-metallic mineral products	15%
Metal products	12%
Food beverages and tobacco	13%
Textiles, clothing, footwear and leather	7%
Petroleum, coal, chemical and associated products	6%
Manufacturing	6%
Wood and paper products	5%
Printing publishing and recorded media	4%
Other	12%

At this level, Machinery and Equipment Manufacturing businesses are the most prevalent, comprising 20.79% of all Manufacturing in Swan.

Records for September 1998 indicate that the majority of jobs within Swan's Manufacturing sector worked in businesses within the Non-Metallic Mineral Production sub-category (27%). Whilst the Machinery and Equipment sub-sector accounted for 16% of all Manufacturing jobs.

Future growth of business numbers within the Manufacturing industry will be linked to growth and retention of manufacturing cluster areas including Malaga, South Guildford and Midland.

³² Working Population Profile ABS Census 2001 W09

Significance of the economic profiling for the Swan Education District

There is particular significance for 15-19 year olds in the Swan Education District of this proposed program, as the education and training profiling of the District revealed the following.³³

Indigenous population

In 2001, 2.9% of City of Swan residents (2 365) identified themselves as being of Indigenous origins, which is higher than the Perth average (1.5% Indigenous people).

Retention and participation

- the retention rate in schools in the Swan Education District is 60.1% compared to the Western Australian retention rate of 71.3%
- Four schools recorded retention rates of less than 45%
- One school reported a retention rate higher than the State average
- Lower numbers of Youth aged 17-19 years are enrolling in Midland Tafe courses with a decrease of 31% since 1999

Youth aspirations and experiences

- youth in post-compulsory school contexts suggest that they have little if any relevant career education
- youth intentions reveal that approximately 20% intend to pursue employment at the completion of school, between 30-40% Tafe and 28% higher education
- families have a considerable influence in school and career decisions
- 50% of Year 10 Indigenous youth are undecided about returning to school.

Youth transition from school

- Year 11 school leavers appear to have a higher risk of being in part-time employment, unemployed and lower participation levels in Tafe training than Year 10 school leavers.

Youth employment and working

- 50% of Years 10 and 11 students are employed part-time (during school).
- In 2001, 16.9% of the labour force aged 15-19 years was unemployed and 13.1% of the labour force aged 20-24 was unemployed.
- Centrelink records show that of the total unemployed, 762 were persons aged 15-19 years (9.7%) and 1 356 persons (17.32%) were aged 20-24 years.

³³ Source: Swan Education District Office (July 2004)

Indigenous Youth

- Year 12 Indigenous youth comprise 14% of total school indigenous enrolments reflecting the very low completion rate for Indigenous youth and the high proportion of early school leavers.
- Indigenous youth are under presented in school VET enrolments.
- Indigenous Tafe enrolments have remained static in the past five years accounting for approximately 2.8% of enrolments.
- Unemployment rate for Indigenous youth is between four and five times the unemployment rate of the total population.
- Aboriginal juvenile apprehensions represent 36.1% of juvenile arrests compared with 21% of adult arrests for Aboriginal adults. State-wide, the Western Australian Indigenous juvenile detention rate of 410.3 per 100 000 Indigenous juveniles is the highest in the country³⁴.

Well-being and health of youth

- evidence of increased access as both in and out-patients in mental health over the past five years.
- parents and school authorities seem to be gatekeepers of young people aged 17 years and less for their health, drug and alcohol problems. Youth aged over 17 years are not so frequently referred to agencies by these gatekeepers.³⁵

Balga Senior High School: a microcosm and snapshot of issues in the City of Swan

Balga Senior High School, where it is proposed that this program be centred, encapsulates certain aspects of the social and demographic profile of the City of Swan:

With the school population ranked in the lowest socio-economic and most disadvantaged group of Australian suburbs, some 75% of the school population, made up of some 40+ cultures receives financial assistance in the form of Health Care Cards, Austudy or Abstudy.

The needs of the students are therefore many and school's current leadership has introduced a wide range of programs to meet these diverse needs, including the Balga Youth Program, an off-campus program for the severely alienated and the Police Ranger Cadets to run core values.

A Digital Literacy Centre using digital constructivism pedagogy – negating the 'digital divide' so all students can access information 24/7 - is currently under development.

The 'no dole' program is another attitudinal program designed to break the community's negative downward spiral and social welfare cycle.

This program operates in Year 10 with students signing a charter to NOT go on the dole but rather seek employment/further training for year 11 and beyond. This has achieved a 100% success rate with the 2003 Year 10 student cohort.

The many other programs at Balga include an innovative Child Care Centre for teenaged single mothers which puts their education back on track and the Swan Nyungar Sports Education Program.

³⁴ *Crime and Justice Statistics for Western Australia: 2002* (The University of Western Australia Crime Research Centre December 2003)

³⁵ Source: Winter, J, *Transitioning Youth in Swan: An Environmental Scan* Department of Education and Training and Edith Cowan University) February 2003

Transport Issues

A critical issue in the success **Youth Advantage** is transport, as increased flexibility will demand individual education and training plans that may require a young person to move between home and school, school and Tafe or a work place.

In most districts across the State there is more than adequate infrastructure in the form of buses and/or trains. What is lacking are the resources to fully utilise this infrastructure to meet the learning and training needs of young people.

A good deal of innovation needs to be considered in addressing this with State and local governments and investigating viable options to ensure that students have access to an education and training plan that meets their needs.

An analysis of current public transport options indicates that access from all parts of City of Swan and other parts of the metropolitan area to Balga Senior High School is possible, but all involve at least one or two changes. This information forms Appendix One (page 48).

Attachment One

Manufacturing Industry Training Services Pty Ltd

W & P. 08/05/2004

June 2004

1.0 EXECUTIVE SUMMARY

1.1 Overview

Manufacturing Industry Training Services (MITS) was established in 1996 to service the training and skills needs of the Engineering, Manufacturing and Technology industries in Victoria.

MITS delivers both accredited and non-accredited training programs as well as providing general business training solutions through their collaboration with Victorian manufacturers.

MITS has developed a business that is committed to the delivery of training and education in the compulsory, post compulsory and vocational arenas. A business culture of excellence through innovation in structured and flexible learning strategies and a commitment to valuing every MITS enrollee as our customer has seen MITS grow to enrolments of more than 600.

MITS recognises that a significant aspect of the vibrance in delivery and the consequential success in employment outcomes in the disengaged youth, pre-employment and vet programs is directly attributable to the investment in its staff.

MITS is proud of the calibre of its people who "Work with MITS" and has a commitment to employing people with skill, professionalism and empathy with our enrollees – the customer. From lettered educators to semiretired mentors, MITS invest significantly in supporting and providing ongoing professional development for its employees.

MITS commenced in 1996 with a commitment to provide an alternative rigoured approach to the training and education market. Today MITS has in excess of 600 enrollees – our customers – in accredited training and skills development at any given time.

With a commitment to providing the opportunity to learn at the time an enrollee seeks participation in a MITS program regardless of funding eligibility, MITS customers have demonstrated their satisfaction with:

- a near 100% completion rate on accredited courses
- employment outcomes in excess of 70%
- up to 20% continuing in education and/or further vocational studies.

1.2 Western Australian Proposal

Following the request of the Aboriginal Education, Training, Services section within Western Australian Department of Education and Training, MITS is excited with the opportunity to expand its operations by replicating their existing training models in Western Australia.

The Western Australian Government's identification of the fundamental need for MITS type programs within the predominantly indigenous community and the potential benefits it can provide to local manufacturing, mining and engineering is to be commended.

This proposal provides a strong outline of the 'value proposition' being offered by MITS, particularly in relation to the benefits of training, future employment, community involvement, together with the considerable flow on benefits to local industry.

The WA proposition initially envisages 4 programs to be run over the first 3 years:

1. **Vocational Education & Training (VET)**
2. **School Based New Apprenticeships (SBNA)**
3. **Disengaged Youth Program (DYP)**
4. **Apprenticeship Program**

Vocational Education & Training (VET) is the cornerstone program with all other programs being interdependent).

The envisaged programs will:

- Actively provide training to approximately 135 students in year one, growing to more than 150 new enrollees per annum by the 3rd year;
- Have provided training to more than 500 varied backgrounds including indigenous youths by the 31st December 2007 (estimated);
- Seek to achieve a 75% sustainable employment placement outcome;
- Require Government support of \$2.2M in the 1st year, with the success of the programs growing to an annual investment around \$8.2M in the 3rd year; and,
- Have significant positive effects on the community.

2.0 BACKGROUND

2.1 History

MITS was formed in 1996 as a catalyst for a group of employers seeking to find training solutions for a rapidly changing manufacturing market. The opportunity was identified from the need to introduce new technology to a resistant to change workforce. MITS is the prodigy of this initiative.

In 2004 the company is now both profitable and sustainable and a registered training provider delivering accredited and non- accredited training in the traditional trades and sustainable skills vocational areas in the manufacturing and engineering sector.

Future growth strategies are focused on maintaining the highest quality of service to customers, including both students and manufacturers.

MITS operates under the Australian Qualifications Training Framework (AQTF) and is currently undergoing ISO 9001 HB90.7 accreditation.

2.2 Philosophy & Mission

MITS ongoing philosophy is to become the leader in delivering high quality training and skills development courses with fairness and equity for the learners, with transparency and accountability surrounding all of its business practices.

In turn MITS mission is to treat every participant as their customer whilst providing Australian business with the highest standard of education, training and skills development service through innovation and best practice design and delivery.

2.3 Location and Facilities

MITS currently operates from its premises at 605 Burwood Highway, Knoxfield, Victoria, accepting a client base that includes social problems including drugs, high levels of youth unemployment and homeless situations.

MITS recently refurbished Knoxfield facilities (to cope with increasing 2004 enrolments) include a state of the art workshop and tooling equipment, as well as general-purpose classrooms. Strong alliances with manufacturers typically provide MITS with capital equipment, MITS simply having to fund service and finance costs.

Over the last 3 years, MITS has delivered VET and more recently School Based New Apprenticeships on school campuses and has committed to providing these services in an expanded format to its existing school base as well as implementing similar programs in more schools in 2005, 2006 and 2007.

3.0 Western Australian Proposal

It is envisaged that the Western Australian project will be largely consistent with the present MITS business model with the aim to provide career guidance, quality training and skills development.

The programs will engage, particularly youths, especially those from disadvantaged backgrounds, in quality training and skills development. At the same time working closely with industry groups to meet their current and future staffing needs.

How does MITS work?

In the broadest sense it identifies the skill needs of a company and matches students to those needs. MITS customers (both businesses and students) then commence their working relationships. Training commences and continues according to the training plan in harmony with both student and employer needs. Progress is continually monitored by MITS mentors.

Please see Appendix 1 of this business case for the MITS model applying to all Youths commencing programs (page 41).

3.1 Programs / Training Offered

In addition to strong apprenticeship programs MITS also specialises in helping young people identify career options. Through their **Pre-Apprenticeships Programs** they have been very successful in helping many youths establish careers and generally sustainable employment opportunities. The MITS model also works extremely well with adults who have found themselves in situations in which career changes have been their only option, due to such things as redundancy, relocation, asylum, and family reasons.

The WA proposition initially envisages 4 programs to be run over the first 3 years:

1. **Vocational Education & Training (VET)**
2. **School Based New Apprenticeships (SBNA)**
3. **Disengaged Youth Program (DYP)**
4. **Apprenticeship Program**
5. Re Skilling & Cross Skilling (not planned in initial proposal)

(1) Vocational Educational & Training (VET): incorporates the following aspects and outcomes:

- Provides "intervention" within the traditional education environment;
- Participants generally sourced at Year 10 to Year 12 level staying until compulsory schooling completed or 2 years;
- 3 days a week of "modified" schooling particularly focused on literacy and numeracy, along with life development skills with an emphasis on obtaining and retaining employment;
- 2 days a week with MITS learning engineering skills, the foundation of traditional manufacturing skill sets; and,
- Aims to be a pathway into another trade based program such as SBNA.

(2) School Based New Apprenticeships (SBNA): incorporates the following aspects and outcomes:

- Essentially the same as the VET program except for the advantage of sharing the 2 day MITS practical experience with an employer manufacturer; and,
- Expected to achieve a 75% employment outcome.

(3) Disengaged Youth Program (DYP): incorporates the following aspects and outcomes:

- Relationship established via Centrelink, Joblink, Pathways and other community networks for youths that have fallen out of current system and "through the cracks";
- 3 days a week at "modified" schooling generally provided through the Certificate in General Adult Education (CGAE), along with life development skills;
- 2 days a week with MITS learning traditional engineering skills; and,
- Beyond initial 13 weeks must obtain employment or return to "normal" schooling or another program.

(4) Apprenticeship Program: incorporates the following aspects and outcomes:

- Traditional apprenticeship program for those having already completed a vocational course; and,
- Generally 1 day a week at MITS for 40 weeks a year (some option for grouping days).

(5.) Re Skilling & Cross Skilling

While not part of this initial WA proposal, MITS would seek to emulate its Victorian success with its Re Skill / Cross Skill Programs that provide services to mature workforces. The success of eventually launching the Re-Skill programs into WA should mean less reliance on government funding along with many qualitative benefits such as an increased network of potential mentors and employers for MITS students.

Companies with a stable workforce or those facing difficulties maintaining a stable core skill base are both potential customers of the Re Skill Program. MITS delivers tailor made programs, either on-site or classroom based that are flexible to meet a company's specific business or production needs. As a result employees and employers alike are generally more committed, motivated and become more involved in work processes.

The importance of a successful Re Skill Program is dependent on the acceptance at all levels and thus MITS have developed extensive experience in selling the value of the program equally to manufacturers, employees and union representatives.

An extension of the Re Skill Program is the customised Organisational Training Plan that considers special needs of a workforce (these can include learning difficulties, language and literacy, numeracy, OH&S etc.).

Similarly the Individual Training Plan is a highly customised document that also requires signing off by all parties involved.

3.2 Stakeholder benefits

The overall community impact of the proposed four MITS programs in Western Australia is anticipated to be significantly far reaching and will include the following stakeholders:

- Youths / students, from a diverse range of backgrounds.
- Indigenous groups
- Government Youth Agencies & Youth Support Groups
- Justice System / Crime Prevention Groups
- Federal and state Ministers
- Department of Education and Training, Government of WA.
- Local government
- Business Enterprises & Manufacturing Industry Employer groups
- Learning Institutions

3.3 Intended Outcomes

The respective stakeholder outcomes can be summarised as follows and should include:

Youths / students:

- A break in the cycle of poverty, welfare dependence and a sense of hopelessness;
- On successful completion a recognised certificate/qualification eg 'Certificate II in Engineering – Production'; and,
- Experience in the workplace and a sustainable career path with ongoing employment including future employment prospects in manufacturing.

Community:

- Personal growth of teachers and mentors through the contribution to the future of young people;
- Empowering members of the community by providing a meaningful outcome in the form of employment;
- Creating positive role models;
- Encouraging further investment in manufacturing and provide a positive flow on effect into other support industries; and,
- Providing an outlet for which “industries” such as the AFL, NBL and other sporting associations can run their employment and schooling programs for current and prospective aboriginal sportspeople.

Business/ Manufacturing Industry:

- Access to highly trained apprentices that are willing to make a contribution;
- A more stable workforce;
- Increased skilling of workforce eg multi skilling, up skilling etc;
- Optimising the return on the investment of training; and,
- A strategic approach to replacing the existing ageing workforce.

3.4 Differentiation/Competitive Advantage

MITS advantage over traditional education institutions is their total integration of all aspects of the student's learning and employment life, together with interacting with each individual student as a valued customer.

To best utilise the skills of the trainers and support the needs of the students, student teacher ratios average around 8 to 1. This is a particularly effective model for intensive machining, welding and practical skills in the workshop.

MITS also differentiates by adding value to manufacturers by first matching candidates with suitable programs and then maximising all eligible subsidies. As the programs cover all aspects of training and skills management, companies are able to focus on their core competencies of production and delivery.

3.5 Proposed WA Staffing

Staffing is one of the most critical success factors. Together with the low student to teacher ratio of approximately 8 to 1, trainers and mentors have strong industry experience and capabilities and are able to offer very practical "hands on" advice. They take pride in the service they provide, with a real commitment to supporting the manufacturing industry with quality training.

Please see Appendix 2 (page 50) for the MITS organisational chart.

Based on the projected student numbers (Appendix 3) MITS anticipates the following full-time staff members on the ground in WA:

Position	Yr 1 2005	Yr 2 2006	Yr 3 2007
Trade Teachers	10	19	33
Mentors (Non-Qual.) / Support Worker	8	18	32
Administration Staff	4	7	13
Placement / Green Jeans Coordinators	2	4	8
Indigenous Liaison Officers	1	2	4
Total	25*	50*	90*

** Extensively supported by the Victorian executive management team and MITS overall Victorian infrastructure – Appendix 2.*

3.6 Timelines

Program commencement dates and enrolment numbers require immediate commitment for Program 1 (VET) by 16 July 2004 thus enabling the necessary operational arrangements to be put into place for a January 2005 commencement:

Program	Programs initial commencement	Yr 1 2005	Yr 2 2006	Yr 3 2007
1. Vocational Education & Training (VET)	Feb '05 (1 st Term)	40	100	190
2. School Based New Apprenticeships (SBNA)	Apr '05 (2 nd Term)	60	130	160
3. Disengaged Youth Program (DYP)	Feb '05 (1 st Term)	25	35	55
4. Apprenticeship Program	Apr '05 (2 nd Term)	10	25	45
Total		135*	290*	450*

** Programs predominantly span more than one year, thus numbers are cumulative.*

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*Proposal: Swan Education District Process Fabrication, Engineering, Manufacturing and Mining Industries
Vocational Education and Training Project*

3.7 Government Funding

In regard to the projected level of Government funding required for the programs' success the following should be noted:

- Government funding of around \$2.2M projected in the 1st year, with the success of the programs growing to an annual investment projected around \$8.2M in the 3rd year.
- Government funding will be required on a regular, not less than a monthly basis, in advance.
- The programs are generally low on fixed overheads.
- Initial indications are that key WA social welfare and youth groups appear keen to support the work of MITS, which should ideally, over time, reduce the reliance on Government funding.
- As MITS philosophies become established in WA, additional incomes should be able to be sourced from W.A. manufacturing businesses.
- GST has not currently been costed into the initial proposal in the belief that the programs should be largely GST Free and thus have minimal effect.
- Maintenance of the low student to teacher ratio is critical; as such only marginal economies of scale are available despite the increasing student numbers.
- In conjunction with the cornerstone VET program, delivery of the other programs is proposed by MITS as a full suite. As such the funding projections should not be easily separated, as to do so may cause a complete reallocation of the respective underlying costs.
- MITS proposes an 8% management charge against all costs.
- By 2007 MITS programs should have a profound impact on the local community with almost 500 students having attending the various programs.

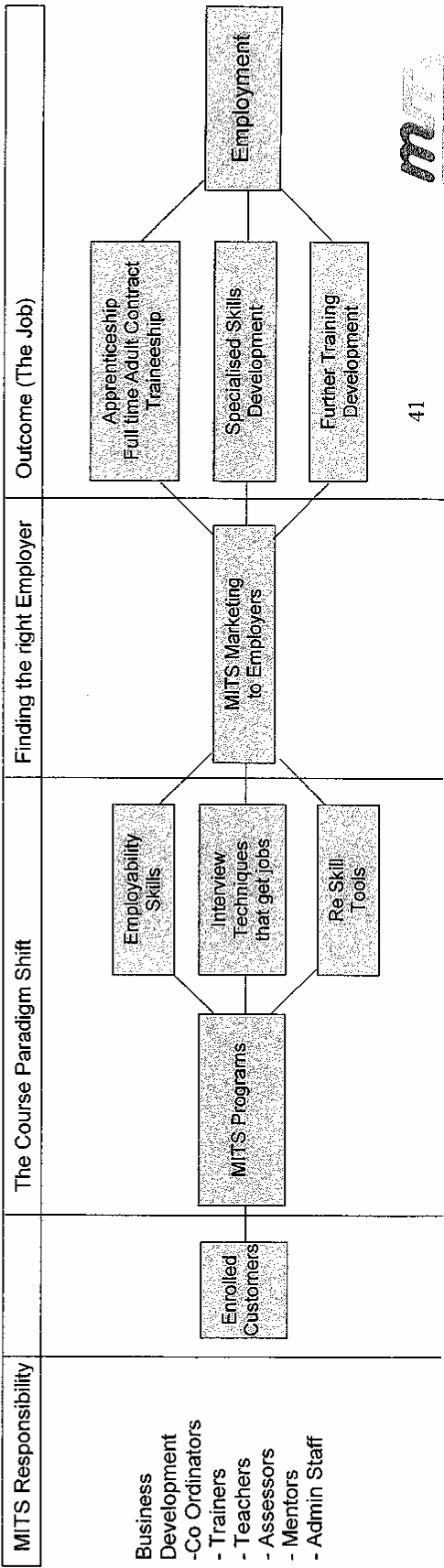
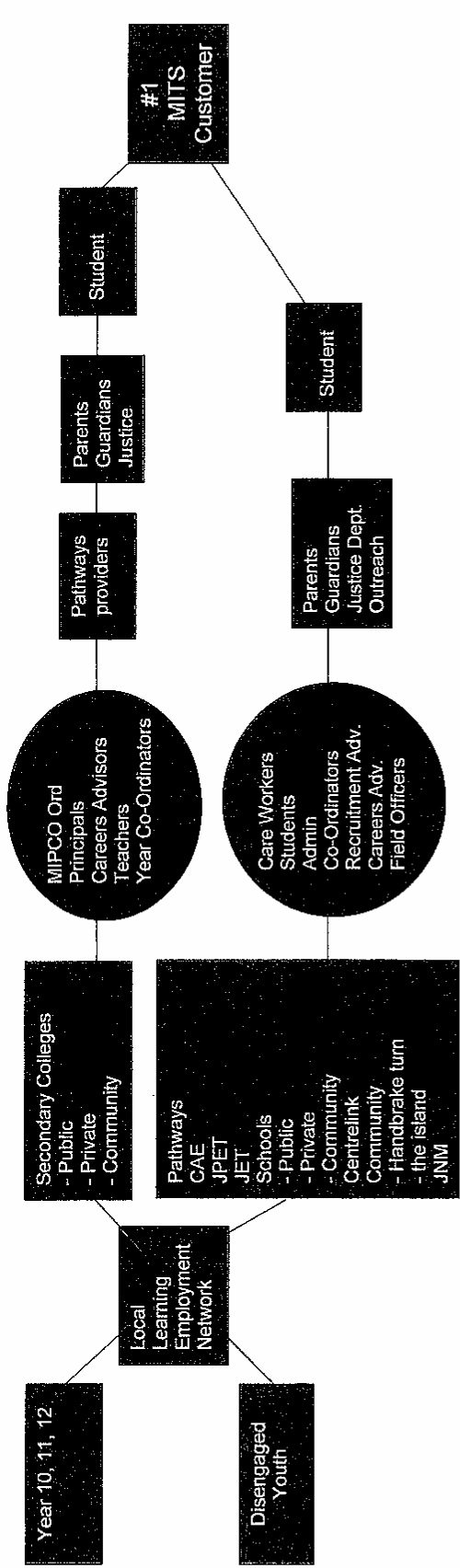
▪ **3.8 Extracts from Pro-forma Financial Projections**
(Heavily rounded)

	Year 1 <i>2005</i>	Year 2 <i>2006</i>	Year 3 * <i>2007</i>
Number of Students	<u>135</u>	<u>290</u>	<u>450</u>
Expenditure:			
Salaries and on costs	1.8M	4M	7.2M
Administration and overheads	<u>490K</u>	<u>660K</u>	<u>880K</u>
	2.29M	4.66M	8.08M
MITS management charge	<u>180K</u>	<u>370K</u>	<u>650K</u>
	<u>2.47M</u>	<u>5M</u>	<u>8.73M</u>
Funded by:			
Corporate / Sponsorship / Partnership / Subsidies	245K	450K	600k
Projected Government Funding Required	\$2.2M	\$4.6M	\$8.2M

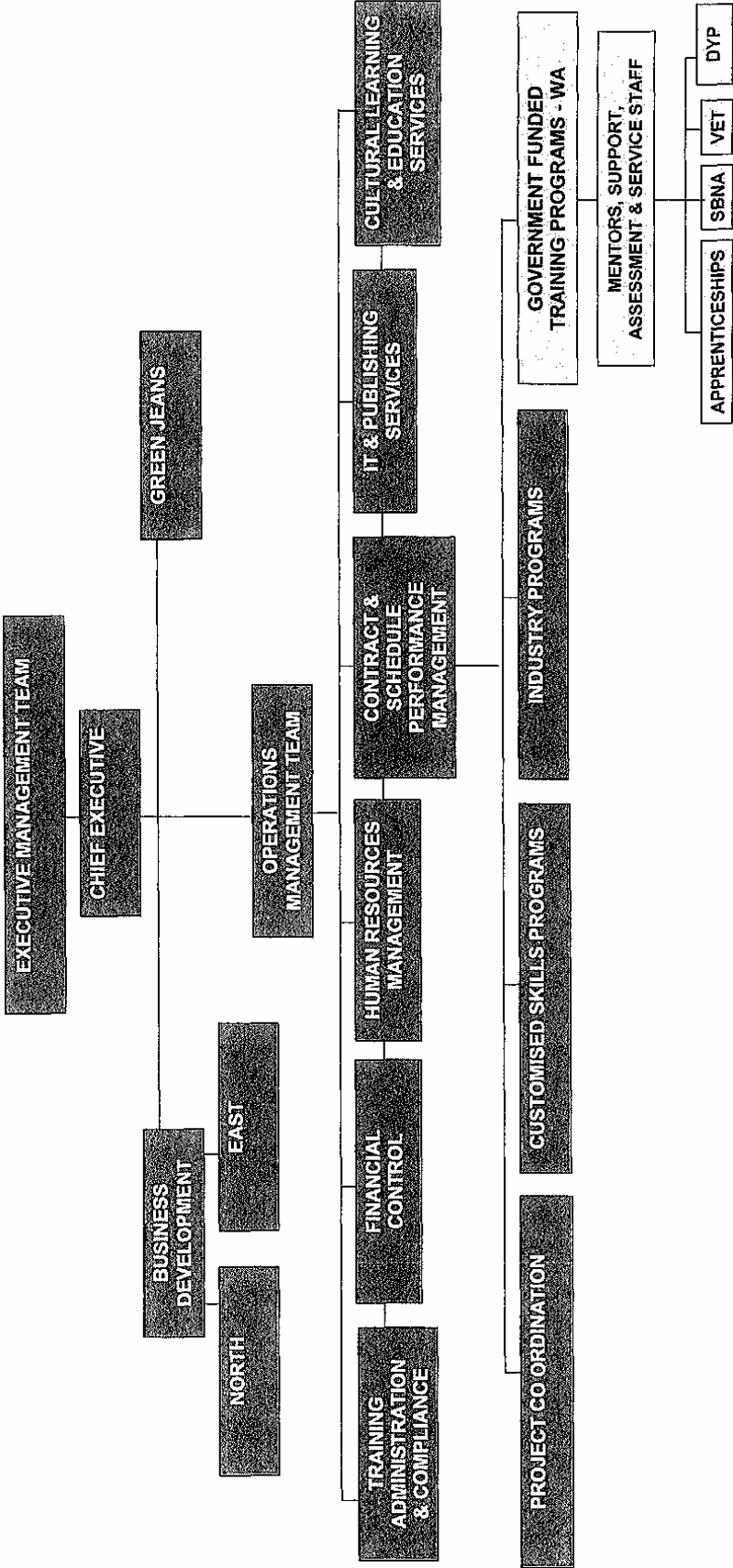
** As a result of students involved in partially complete MITS programs, funding would be required at least until 2009, even if the program adoption technically ceased in 2007.*

Please see Appendix 3 for full financial forecast and assumptions.

Appendix 1 – Pre Vocation & Vocational Intervention youth Customer Services



Appendix 2 - Organisational Chart



Appendix 3 – Detailed Financial Projections & Assumptions

The following assumptions have been adopted throughout this proposal:

All Programs:

Establishment and Development Requirement:

On and from the 1st of September 2004, MITS will be required to initiate program planning activities and marketing to all prospective participants including students, parents, employers, schools, government and agencies, community and interest groups. This advanced activity will be vital in terms of project success for 2005.

For the purpose of this proposal, Program 1 in the 2005 projected costs (Page 23), a notation #1 has been attached to those expenses and costs MITS will be required to commit to from no later than September 1st 2004. Therefore a provision for these costs must be included in the first year operating budget and is represented by a total of \$92,188 (1/3 of the sum of notated descriptors and values). These costs will be required to be met at the time they are incurred.

General:

- Maintenance of a low 8 to 1 student to teacher ratio is critical; as such only marginal economies of scale are available despite the increasing student numbers.
- The programs are generally low on fixed overheads.
- Government funding will be provided on a regular, not less than a monthly basis, in advance. Similarly receipt of other income will be regular and thus debtors will be consistently minimal.

The primary expense of salary and wages is paid fortnightly / monthly, with other expenses paid on normal terms. Thus MITS should have minimal creditors at any one time.

- Increases in enrolments over each previous year have been set at:
 - Vocational Education & Training (VET) - 3yr Program - 50%
 - School Based New Apprenticeships (SBNA) - 2yr Program - 20%
 - Disengaged Youth Program (DYP) - 13 week Program - 50%
 - Apprenticeship Program – 3yr Program - 50%
- MITS propose an 8% management charge against all costs.

Costs:

- Apart from the school facility rental, expense items and non-government income are forecast to increase annually by an estimated 5%.
- The current school facility rental is currently fixed at \$120,000 per year. The existing schooling capacity is considered to be currently well in excess of first year enrolment forecasts and capable of handling, with minor adjustments, the initial 3 year enrolment projections.
- For conservative costing purposes, resources, materials, safety and clothing are costed annually per enrolled student, despite in years 2 and 3 the majority of enrolments being returning students.
- Capital costs are forecast to be minimal as the total school facility infrastructure is included in the rental charge. Ongoing capital purchasing can be best summarised as:
 - Practical trade based and manufacturing equipment is generally hired from industry partners;
 - Computers and IT equipment is anticipated to be sourced, low cost from ex-government or business stock;
 - Reference library materials require updating / restocking after the initial purchase and inline with anticipated student number increases.
- Staffing on programs is a combination of experienced trade teachers, mentors, consultants and liaison officers. Where a full time position is not required for a program an appropriate staff member is prorated (0.2 = 1 day).

Full-time staff members are projected based on the follows:

Position	Base Salary	MV Allowance	On -Costs *	Total
Trade Teachers	65,000	0	32%	85,800
Mentors (Non-Qual.) / Support Workers	45,000	12,000	32%	75,240
Senior Admin	38,000	12,000	32%	66,000
Junior Admin	20,000	0	32%	26,400
Placement Co-Ordinator	62,000	12,000	32%	81,840
Green Jeans Consultant	50,000	12,000	32%	81,840
Indigenous Liaison Officer	60,000	12,000	32%	95,040

On-costs are based on a 32% increase on salary package broadly covering:

- **Holiday/ sick pay costs and temporary replacement staff (approx. 16%);**
- **Superannuation is calculated on 9% of gross wages for all years; and**
- **Workcover and Payroll taxes are considered at their nominal rates (approx.1% and 6% respectively).**

Cost Subsidies:

- The Smith Family or similar agency are forecast to provide sponsorship for at least 100 students at \$350 each, contributing \$35,000 to revenues each year.

Specific Programs:**(1) Vocational Education & Training (VET):**

- Facility rental of the school has been costed against this project in full, **as it is the cornerstone project.**
- Management travel expense is projected to be high in the first year, as considerable time will be spent establishing the operations and critical program culture. In subsequent years this is forecast to reduce to be a quarter of the first year expense.

(2) School Based New Apprenticeships (SBNA):

- Consistent with the Victorian successes it is anticipated that 75% of students will get sustainable employment outcomes.
- Included in cost subsidies is a one-off \$500 per student Government program receipt for those students gaining employment. This is received at the time MITS places the student.
- Green Jeans ongoing placement commission income based on following assumptions;
 - Paid by employers on the 75% that gain employment;
 - Assumed employment will continue for 24 months;
 - Nominal salary of \$20k p.a. increased 5% annually;
 - Commission paid monthly at 1.1% of annual salary (effective 13.2% p.a.).
- Costing allow some travel expenses for students who encounter a barrier insofar as transport is concerned.

(3) Disengaged Youth Training (DYP):

- Green Jeans ongoing placement commission income based on the above assumptions for the SBNA except for 100% employment outcomes from enrollees during program.
- Costing allow some travel expenses for students who encounter a barrier insofar as transport is concerned.
- Sundry expenses have been costed on a per student basis.

(4) Apprenticeship Training Program:

- The annual apprentice enrolment cost paid by employer is capped at \$470 and increases annually by 5%.
- Expenses are prorated for the 40-week course on the basis that those full-time employees will be allocated to other programs during the remaining time.
- Sundry expenses have been costed on a per student basis.

Financial Projections
-Commencing 1st January 2005

		Year 1	Year 2	Year 3
		<i>1/01/05 to 31/12/05</i>	<i>1/01/06 to 31/12/06</i>	<i>1/01/07 to 31/12/07</i>
<u>Costs</u>	<u>Notes</u>			
Salaries, wages, on costs	2 & 3	1,787,727	3,992,854	7,231,520
Training Materials - Resources & Supplies		86,246	196,156	300,309
Training Materials - Safety and Clothing		16,800	36,792	58,000
Travel - Management		40,000	10,500	11,025
Travel - Administration		4,000	4,200	4,410
Travel - Employment Sites		28,600	31,920	36,493
Facility Maintenance and Cleaning		35,846	75,396	119,589
Amenities Cost		25,000	26,250	27,563
Phone and Postage		32,500	40,425	52,369
Rental of School Facility		120,000	120,000	120,000
Computers and IT		32,800	36,960	42,777
Reference Library Supplies		10,000	10,500	11,025
Sundry Supplies & Equipment		58,446	72,466	93,568
		<u>2,277,965</u>	<u>4,654,420</u>	<u>8,108,648</u>
SHS Management Charge		182,237	372,354	648,692
		<u>2,460,202</u>	<u>5,026,773</u>	<u>8,757,340</u>
<u>Program costs funded by</u>				
Other Govn. Income - Job Placement Payment	4	22,500	28,350	35,721
Corporate Income - Job Placement Commissions	5	182,160	374,220	502,952
Corporate Income - Apprenticeship Enrolment Fee	6	4,700	12,338	24,613
Sponsorship Income	7	35,000	35,000	35,000
		<u>244,360</u>	<u>449,908</u>	<u>598,286</u>
Projected Government Funding Required	8	<u>2,215,842</u>	<u>4,576,866</u>	<u>8,159,054</u>

	Year 1 1/01/05 to 31/12/05	Year 2 1/01/06 to 31/12/06	Year 3 1/01/07 to 31/12/07	
<u>Note 1 - Projected Student Numbers</u>				
Vocational Education & Training (VET)	40	100	190	
School Based New Apprenticeships (SBNA)	60	132	158	
Disengaged Youths Training (DYP)	24	36	54	
Apprenticeship Training	10	25	48	
	<u>134</u>	<u>293</u>	<u>450</u>	
<u>Note 2 - Projected Staffing Requirements</u>				
Trade Teachers	9.2	18.8	31.8	
Mentors (Non-Qual.) / Support Workers	8.2	18.3	32.0	
Senior Admin	1.6	3.5	6.4	
Junior Admin	1.4	3.3	6.2	
Placement Co-Ordinator	1.4	3.1	5.7	
Green Jeans Consultant	0.5	0.8	1.1	
Indigenous Liaison Officer	1.0	2.2	3.6	
	<u>23.3</u>	<u>50.0</u>	<u>86.7</u>	
<u>Note 3 - Employee Remuneration Rates</u>				
	<u>Base Salary</u>	<u>MV Allowance</u>	<u>On -Costs</u>	<u>Total</u>
Trade Teachers	65,000	-	32%	85,800
Mentors (Non-Qual.) / Support Workers	45,000	12,000	32%	75,240
Senior Admin	38,000	12,000	32%	66,000
Junior Admin	20,000	-	32%	26,400
Placement Co-Ordinator	50,000	12,000	32%	81,840
Green Jeans Consultant	50,000	12,000	32%	81,840
Indigenous Liaison	60,000	12,000	32%	95,040
<u>Note 4 - Job Placement Initial Payment</u>				
Vocational Education & Training (VET)	-	-	-	-
School Based New Apprenticeships (SBNA)	22,500	28,350		35,721
Disengaged Youths Training (DYP)	-	-		-
Apprenticeship Training	-	-		-
	<u>22,500</u>	<u>28,350</u>		<u>35,721</u>

	Year 1 1/01/05 to 31/12/05	Year 2 1/01/06 to 31/12/06	Year 3 1/01/07 to 31/12/07
Note 5 - Job Placement Ongoing Commissions			
Vocational Education & Training (VET)	-	-	-
School Based New Apprenticeships (SBNA)	118,800	274,428	345,779
Disengaged Youths Training (DYP)	63,360	99,792	157,172
Apprenticeship Training	-	-	-
	<u>182,160</u>	<u>374,220</u>	<u>502,952</u>
Note 6 - Apprenticeship Enrolment Fee			
Vocational Education & Training (VET)	-	-	-
School Based New Apprenticeships (SBNA)	-	-	-
Disengaged Youths Training (DYP)	-	-	-
Apprenticeship Training	4,700	12,338	24,613
	<u>4,700</u>	<u>12,338</u>	<u>24,613</u>
Note 7 - Sponsorship / Partnership Income			
Smith Family Scholarships, 100 p.a. x \$350	<u>35,000</u>	<u>35,000</u>	<u>35,000</u>
Note 8 - Government Funding			
Vocational Education & Training (VET)	903,809	1,935,436	3,641,781
School Based New Apprenticeships (SBNA)	782,135	1,759,114	3,079,081
Disengaged Youths Training (DYP)	482,878	760,533	1,197,839
Apprenticeship Training	47,020	121,784	240,353
	<u>2,215,842</u>	<u>4,576,866</u>	<u>8,159,054</u>

The four programs are proposed to be delivered by MITS as a full suite. As such the Government funding should not be separated as to do so may require a complete reallocation of the respective underlying costs.

Appendix One

Transperth's public transport network is basically radial from the Perth CBD and this presents specific challenges.

There are a number of cross suburban services in addition to the CircleRoute that allow public transport passenger to travel between suburbs across the metropolitan area without coming into the CBD.

However, in some cases because of the lack of frequency on the routes or number of connections required to complete a cross suburbs journey, it can often be quicker to travel via the CBD.

Taking Balga Senior High School as a major end destination, the school is served by Route 372 which operates between Marangaroo and Mirrabooka Bus Station where a frequent bus service to Perth is available on Routes 354, 370 and 870.

From Mirrabooka, buses travel to a variety of locations such as Warwick Station and Morley Galleria Bus Station (via Route 64), and to Dianella, Inglewood and Mount Lawley (via routes 67, 68 and 69).

A special route 64 trip deviates to Balga High School coinciding with school opening and finishing times, to provide students with a direct link to Warwick Train Station.

From Morley Bus Station buses are available to Bassendean Train Station (via routes 62, 63) and Midland Train Station (via route 333).

Buses also travel to suburbs such as Noranda, Lockridge, Kiara, Eden Hill and Beechboro (routes 59, 61, 62, 63), as well as Embleton, Bayswater, Maylands (via route 48).

Morley Bus Station is served by the popular CircleRoute bus service which also links City of Canning suburbs such as Willetton, Riverton, Shelley and Wilson with the train network at Oats Street Station.

Individual journey plans for students travelling from the Cities of Swan, Stirling and possibly as far as Canning would vary enormously dependant on the student's location.

This individualised information is probably best sourced from Transperth's Website. However the following information should provide an indication of the typical travel plans.

Journeys to Balga High School from the City of Swan would typically require the student to travel from home by bus or walking to a transport node such as Midland Station or Morley Bus Station.

Students accessing the Midland train line would travel to Perth by train and then transfer to the route 354 bus which departs Perth's Wellington Street Bus Station at 7.36am.

This bus connects at Mirrabooka with the 8.05am route 372 to the school.

Students accessing Morley Bus Station would transfer to the 7.25am route 64 bus from Morley and transfer to the route 372 bus at Mirrabooka. The total journey time for most students would be in the range of 50-70 minutes

Journeys to Balga High School from the City of Stirling would typically require students to travel to Warwick Station and transfer to the 7.37am route 64 bus, which deviates to the school. Total journey time for students would be in the range of 30-60 minutes.

Journeys to Balga High School from the City of Canning would typically require students to access the Armadale train line, or an express bus service (routes 880, 885) along the Kwinana Freeway to Perth.

Students would then transfer to the 7.36am route 354 bus from Wellington Street Bus Station and the connecting route 372 bus from Mirrabooka to the school. Total journey time for students would be in the range of 50-70 minutes.

In almost all cases students travelling to Balga High School from these areas would attract either a 1 Zone (80 cents) or a 2 Zone (\$1.30) concession cash fare. Further discounts of 12.5% and 25% are available by the purchasing of MultiRider 10 or 40 trip tickets.

It is interesting to note that the policies and practices that encourage students to travel to schools outside of their immediate area are against the principles of Perth's Metropolitan Transport Strategy and this is an issue that needs dealing with now if the policy objectives of **Youth Advantage** are to be achieved.

It greatly increases the transport task and consequent transport cost to the community.

In order to provide viable public transport services in Perth's comparatively 'low density' development Transperth provides a network of interconnecting services.

If a particular school provides specialist courses that attract students from a wide catchment then the transport implications need to be recognised and the extra transport costs need to be factored into the overall cost of the program. Transperth simply does not have the resources to provide direct buses between every school and every residential suburb.

Appendix Two**Steering Group Members**

The development of this report was oversighted by a steering group comprising:

Mr Robert Somerville Director of Aboriginal Education and Training

Mr Mike Jakins Executive Officer (Process Manufacturing Industry Training Council of WA Inc)

Mr Merv Hammond Principal Balga Senior High School

Mr Michael Carton Chief Executive Officer Manufacturing Industries Training Services (MITS) Victoria

APPENDIX 7
FTE CONVERSIONS

APPENDIX 7

FTE CONVERSIONS

Eighth Submission to the Inquiry into the Memorandum of Understanding between Balga Senior High School and Manufacturing Industry Training Services Pty Ltd

2005 FTE SALARY CONVERSION PAYMENTS

6. On 1 June 2005 the initial request for a FTE salary conversion was made to the Department's Staffing Directorate by the Manager Operations of the Swan Education District Office ('Manager Operations'), on behalf of the School. A copy of that request is attached as Attachment B.
7. Around this time the Manager Operations developed a staffing formula proposal – *Balga Works Staffing 2005*, which describes the application of the multiplier concept. A copy is attached as Attachment C.
8. The School sought additional FTE on the basis of the length of the extended school year (Annual Program Multiplier) and the extended hours of operation (Weekly Program Multiplier) of the Program.
9. On the basis of the request from the school, an FTE conversion of 3.54 FTE (using the Weekly Multiplier only), was paid to the School on 8 June 2005. This equated to an amount of \$185 120.00, where the Dollar Rate per FTE was \$52 293.00.
10. On 12 August 2005, at the request of the School, a FTE salary conversion of 6.34 FTE (calculated using both multipliers) was paid to the School. This equated to an amount of \$331 240.00, where the Dollar Rate per FTE was \$52 246.00.
11. On 2 November 2005, at the request of the School, a FTE salary conversion of 4.0 FTE (calculated using both multipliers) was paid to the School. This equated to an amount of \$209 040.00, where the Dollar Rate per FTE was \$52 260.00. *(Please note the payments detailed at paragraphs 10 and 11 were erroneously reported as being paid to the school as a single payment on 1 November 2005 in the response provided to a question tabled in the Legislative Council on Wednesday, 9 May 2007.)*
12. On 21 November 2005, at the request of the School, a FTE salary conversion of 2.93 FTE (calculated using both multipliers) was paid to the School. This equated to an amount of \$153 140.00, where the Dollar Rate per FTE was \$52 266.00. *(Please note that this payment was not included in the response provided to a question tabled in the Legislative Council on Wednesday, 9 May 2007.)*
13. The multipliers were based upon information from the School and agreed to be used from June for 2005 following negotiation between the School, the District Office and the Staffing Directorate.
14. In September/October 2005, the Staffing Directorate questioned the ongoing use of the multipliers, but the School Principal indicated that it was necessary to sustain the program for 2005.

Eighth Submission to the Inquiry into the Memorandum of Understanding between Balga Senior High School and Manufacturing Industry Training Services Pty Ltd

15. On this basis the Staffing Directorate agreed to the use of multipliers for the remaining payments for 2005, but advised that they would not be used again for funding purposes in 2006.
16. As stated in paragraph 38 of the initial Submission, the Department became aware of the signing of the MOU and the Liquidator's Claim in October 2005 and subsequently began an investigation into the Program.

2006 FTE SALARY CONVERSION PAYMENTS

17. The use of the Annual Program Multiplier and the Weekly Program Multiplier were discontinued in 2006 and the Program was funded on a flat student population rate of 100 FTE students. This was to be substantiated by the ongoing provision of school attendance data (verified through the District Office).
18. On 2 March 2006, at the request of the School, a FTE salary conversion of 8.7 FTE was paid to the School. This equated to an amount of \$248 875.00, where the Dollar Rate per FTE was \$57 212.00.
19. On 23 June 2006, at the request of the School, a FTE salary conversion of 8.7 FTE was paid to the School. This equated to an amount of \$248 875.00, where the Dollar Rate per FTE was \$57 212.00. No further FTE salary conversion payments were paid to the School in respect of the Program after this date.

STAFFING DIRECTORATE

DEPARTMENT OF EDUCATION AND TRAINING

By District, Process Date 14/12/05, Institution: 4050 - BALGA S.H.S.

School Staffing Allocation Chart - Year: 2005

Process Date: 14/12/05

School Details															
School Code:	4050	DH2													
School Name:	BALGA S.H.S.														
School H Factor:	86.00	Phone: 9247 0222 Fax: 9342 0944													
Actual Enrolments	*Mul tiply	4 Yr Old	5 Yr Old	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12
Mainstream St	1										47	86	83		
Mild/Mod	3										4	4	6	10	7
Mult/Sev	3.6														
NESB - Suppo	1.5										4	4	5	4	4
NESB - ILC	2.2										50	38	28		
Severe	3.5														
Vocational Edn	1.1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	178	30

Adjusted Enrolments	4 Yr Old	5 Yr Old	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12
# Students	0	0	0	0	0	0	0	0	0	105	132	122	192	41
After Weight	0	0	0	0	0	0	0	0	0	175	187.6	170.1	231.8	60
x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Year Multi	0.7	1.25	1.17	1.17	1.17	1.14	1.14	1.15	1.15	1.42	1.54	1.64	1.72	1.73
= Final Adjust	0	0	0	0	0	0	0	0	0	248.5	288.9	278.9	398.6	103.8

Formula Allocation	Adjusted Enrolment	x Enrolment to FTE Ratio	FTE
Total Adjusted Enrolment after all Student Factors	1,318.86	x 0.0412	= 54.34
+ Base FTE Allocation			= 1.50
+ Institutional Factors ()	x 1,318.86	x 0.0412	= 0.00
			= 55.84

Additional FTE For School Factors	Adjusted Enrolment	x Enrolment to FTE Ratio	FTE
+ Social Disadvantage Index:	8.40	% of 1,318.86	x 0.0412 = 4.57
+ Curriculum Access Yr 8 - 10:	0.00	% of 816.37	x 0.0412 = 0.00
+ Curriculum Access Yr 11 - 12:	0.00	% of 502.50	x 0.0412 = 0.00
			= Total Additional FTE 4.57

School Staffing Allocation Chart - Year: 2005

Process Date: 14/12/05

School Details		
School Code:	4050	DH2
School Name:	BALGA S.H.S.	
School H Factor:	86.00	
Phone:	9247 0222	
Fax:	9342 0944	

Total Formula Allocation	Formula Allocation and Additional FTE	60.40
	Special Programs	-3.33
	Site Factor	0.00
	LOTE Above Formula Allocation	0.00
	Total FTE	57.07

Special Programs Details		
Description	WorkgroupCode	FTE
Revised adjustment to old formula Balga Works	SE	0.73
Adjusted to final BMAD allocation 1.4FTE	SE	-0.20
Revised adjustment to old formula	SE	0.52
Revised adjustment to old formula	SE	-0.10
2.0 FTE ABOVE FORMULA BALGA YOUTH PROGRAM	SE	2.00
3.54 FTE converted to salary pool for Balga Works	SE	-3.54
6.34 FTE CONVERTED TO BALGA WORKS PROGRAM	SE	-6.34
1.0 FTE ABOVE FORMULA DP	SE	1.00
1.0 FTE FOR SUPERNUMERY PLACEMENT OF DP	SE	1.00
1.6 FTE BM&D	SE	1.60
Total of Special Program		-3.33

Comments		
18-Nov-2005	4.0 fte for full year converted to salary pool, for Balga Works Program	
18-Nov-2005	2.93 FTE FOR FULL YEAR CONVERTED TO SALARY POOL FOR BALGA WORKS PROGRAM. THIS IS THE FINAL PAYMENT FOR THE BALGA WORKS FOR 2005. THE TOTAL FTE FOR 2005 IS 16.81	
22-Aug-2005	1.0 ABOVE FORMULA STAFFING FOR ADDITIONAL DP UNTIL END OF 2006 APPROVED KIM WARD.	
11-Aug-2005	CONVERTED 6.34 FTE FOR BALGA WORKS PROGRAM FULL YEAR. BASED ON 94 FTE STUDENTS FOR SEM 2. IN TOTAL YEAR 11 VET PLUS BALGA WORKS = 178 STUDENTS FOR SEM 2.	
20-Jul-2005	New enrolments Balga Work Program.	
23-Jun-2005	Converted 1.63 FTE to school salary pool for term 1 only.	
2-Jun-2005	Converted 3.54 FTE to school salary pool for the Balga Works Program based on Student enrolments of 53 for term 1 and 120 for term 2 average for full year of 43 students. Added to year 11 VET program.	
26-Apr-2005	FINAL BM&D ALLOCATION 1.4 FTE	
21-Feb-2005	SRA ALLOCATION 1X BAND 4	
16-Feb-2005	Confirmed enrolments as at unders and overs, Final adjustment 0.52	
25-Nov-2004	2.0 FTE ABOVE FORMULA FOR BALGA YOUTH PROGRAM FOR 2005 ONLY	
17-Nov-2004	1.60 FTE BM&D plus \$88,7000	
19-Oct-2004	Anticipated enrolments as per school advice.	
19-Oct-2004	Adjustment old vs new 0.34	

DEPARTMENT OF EDUCATION AND TRAINING

STAFFING DIRECTORATE

By District, Process Date 13/12/2006, Insti

School Staffing Allocation Chart - Year: 2006

Process Date: 13/12/2006

School Details														
School Code:	4050													
School Name:	BALGA S.H.S.	Phone:	9247 0222											
Social Ec Index:	86.00	Fax:	9342 0944											

Actual Enrolments	*Multipl	4 Yr Old	5 Yr Old	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12
Mainstream Students	1										44	42	58		
(1)Education Needs (Level 1)	1.5											1			
(2)Educational Needs (Level	2														
(3)Educational Needs (Level	2.5														
(4)Educational Needs (Level	3										5	3	6	7	8
(5)Educational Needs (Level	3.6											1			1
NESB - Support	1.5										2	4	6	10	2
NESB - ILC	2.4										42	44	41		
Vocational Edn	1.1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	81	45

Adjusted Enrolments	4 Yr Old	5 Yr Old	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12
# Students										88	90	105	91	47
After Weight										147.8	153.6	165.4	104.1	52.5
x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Year Multi	0.75	1.28	1.2	1.2	1.2	1.06	1.065	1.07	1.07	1.38	1.48	1.565	1.74	1.74
= Final Adjust										203.964	227.328	258.851	181.134	91.35

By District, Process Date 13/12/2006, Insti

School Staffing Allocation Chart - Year: 2006

Process Date: 13/12/2006

School Details

School Code:	4050	Phone:	9247 0222
School Name:	BALGA S.H.S.	Fax:	9342 0944
Social Ec Index:	86.00		

Additional FTE For School Factors**FTE**

Adjusted Enrolment Economies of Scale Cutoff	1400
Below Cutoff FTE Ratio	0.0420
Above Cutoff FTE Ratio	0.0391

= Social Disadvantage at	<input type="text" value="8.40"/>	%	using economies of scale on adjusted enrolments =	<input type="text" value="3.40"/>
+ Curriculum Access Yr 8 - 10:	<input type="text" value="0.00"/>	%	using economies of scale on <input type="text" value="690.14"/>	= <input type="text" value="0.00"/>
+ Curriculum Access Yr 11 - 12:	<input type="text" value="0.00"/>	%	using economies of scale on <input type="text" value="272.48"/>	= <input type="text" value="0.00"/>
= Total Additional FTE				<input type="text" value="3.40"/>

Formula Allocation**Adjusted Enrolment****x Enrolment to FTE Ratio****FTE**

Total Adjusted Enrolment after all Student Factors

= Adjusted Enrolments Below Economies of Scale Cutoff

x

0.0420

=

= Adjusted Enrolments Above Economies of Scale Cutoff

x

0.0391

=

+ Total Additional FTE From School Factors (above)

+ Base FTE Allocation

+ Institutional Factors ()

x

x

0.0420

=

Total Formula Allocation

Formula Allocation and Additional FTE

Special Programs

Site Factor

LOTE Above Formula Allocation

Total FTE

EN FTE Contribution

The FTE generated by Educational Needs Students in your school is :

7.02**Special Programs Details**

Description	WorkgroupCode	FTE
REVERSAL - SALARY POOL CONVERSION DECLINED	SE	0.97
SALARY POOL CONVERSION - FULL YEAR RETROSPECTIVE	SE	-0.97
Balga Works Program converted to salary pool	SE	-8.70

Teachers Establishment System

Page 2 of 3

18/12/2007

11:03:53AM

13/12/2006

By District, Process Date 13/12/2006, Insti

School Staffing Allocation Chart - Year: 2006

Process Date: 13/12/2006

School Details

School Code:	4050	Phone:	9247 0222
School Name:	BALGA S.H.S.	Fax:	9342 0944
Social Ec Index:	86.00		

BM&D ALLOCATION	SE	1.50
FINAL BMAD ALLOCATION 1.40	SE	-0.10
2.0 Above formula for Balga Youth Program	SE	2.00
2.46 additional FTE adjustment for IEC average.	SE	2.46
Balga Works Program (see comments)	SE	8.70
0.20 FTE FOR 2 X LEVEL 3 TEACHERS	SE	0.10
1.0 ABOVE FORMULA ALLOCATION FOR ADDITIONAL DP	SE	1.00
1.0 ABOVE FORMULA ALLOCATION FOR SUPERNUMERY D/	SE	1.00
Total of Special Program		7.96

Comments

1-Dec-2006 0.1FTE LEVEL TEACHER REMOVED FOR GEOFF HOLT ON LEAVE

28-Nov-2006 ENROLMENTS UPDATED AS PER EMAIL FROM MELISSA GILLET.

20-Mar-2006 1.0 FTE ABOVE FORMULA FOR ADDITIONAL DP - GARY TAYLOR

15-Mar-2006 FINAL BMAD ALLOCATION 1.40

28-Feb-2006 Adjusted enrolments as per email figures 28/02

27-Feb-2006 BALGA WORKS PROGRAM BASED ON 100 STUDENTS FOR SEM 1 = 8.7 FTE

27-Feb-2006 CONVERTED TO SCHOOL SALARY POOL 8.7 FTE BALGA WORKS PROGRAM = \$248,875.00 FOR SEMESTER ONE

24-Feb-2006 Staffing allocation adjusted in accordance with revised enrolments from unders and overs. Schools Plus FTE adjusted.

2-Feb-2006 STAFFING ALLOCATION ADJUSTED IN ACCORDANCE WITH REVISED ENROLMENTS FROM UNDERS AND OVERS. SCHOOLS PLUS FTE ADJUSTED.

21-Feb-2006 Loaded from Web enrolments ID 1860
Level 3 Classroom Teachers: Melesha Sands
Geoff Holt
Kathryn Maughan (Geoff Holt not eligible as Acting Level 3 Administrator)

9-Feb-2006 1.0 ABOVE FORMULA ALLOCATION FOR SUPERNUMERY D/P

23-Jan-2006 1.5 BM&D ALLOCATION

15-Dec-2005 2.46 FTE additional to IEC staffing to the average. Review at the end of Term 1.

27-Oct-2005 2.0 Above Formula for Balga Youth Program for 2006 only.

14-Oct-2005 Revised enrolments Year 11.s taken off Balga Works numbers

28-Sep-2005 Revised anticipated enrolments as per fax. 25/09

14-Sep-2005 Adjustment to 2006 calculator

31-Aug-2005 Loaded from Web enrolments ID 617



Mr J Garnaut
District Director
Swan Education District Office
18 Blackboy Way
BEECHBORO WA 6063

REGISTERED	DOCUMENT NO: SWD 05/00458
	FILE NO: SWSCBAG-1-02
13 APR 2005	
<input type="checkbox"/> ORIGINAL FOR ACTION <input type="checkbox"/> COPY TO _____	

Dear John

Re: Balga Works Program Funding Model

The table below details the monthly breakdown of enrolments and subsequent salary liability for the program for the period 1 January 2005 to 31 March 2005.

The increase in monthly payments during this period reflects the gradual increase in student enrolments. It is understood the monthly amounts will only increase in line with fte. formula.

It is proposed that future drawings are managed on a "month in arrears" basis.

Balga Works FTE Salary

	Students Enrolled	FTE per year if that enrolment holds for the year	\$ amount per months (based on a classroom teacher at the top of the salary school @ \$59542 per year)	VET School Grant (\$177 per student per year)
January 2005	30	2.4 FTE	\$ 11,908	\$ 442
February 2005	45	3.7 FTE	\$ 18,358	\$ 549
March 2005	71	5.8 FTE	\$ 28,778	\$ 856
April 2005	94	7.7 FTE	\$ 46,641	\$1135
		TOTALS	\$105,685	\$2982

Should you have any queries regarding this matter, please do not hesitate to contact me.

Yours sincerely

MERV HAMMOND
Principal

8 April 2005



THIRTY-SEVENTH PARLIAMENT

**MINORITY REPORT OF
HON KEN TRAVERS MLC**

REPORT 12

**STANDING COMMITTEE ON ESTIMATES AND
FINANCIAL OPERATIONS
BALGA WORKS PROGRAM**

Report 12 - Minority

May 2008

Minority Report of Hon Ken Travers MLC

in regard to

Report 12 - Balga Works Program

DISSENT FROM RECOMMENDATION 7

- 1.1 At paragraph 5.62 the committee noted that the overwhelming majority of the Executive of the P & C were involved with BWP and most were employed at BSHS. Further the committee found that the P & C did not operate with sufficient autonomy from the BSHS and was compromised by conflicts of interests.
- 1.2 As a result of this, the majority of the Committee has recommended that the Western Australian Council of State School Organisations Incorporated (WACSSO) prohibit school employees who are members of a Parents and Citizens Association (P &C) to also be signatories of the P & C bank accounts.
- 1.3 However, the committee has not examined:
 - a) If staff in any other schools are signatories to P & C bank accounts and if so how widespread the practise is.
 - b) What are the implications for schools and P & C's if the majority recommendation was implemented.
 - c) If there is some alternative action that could address the concerns raised as a result of events surrounding the BWP.
 - d) If WACSSO actually has the ability to prohibit individual P&C's from having school employees as signatories to their bank accounts.
- 1.4 In light of this I am not able to support the majority decision.
- 1.5 However, I do believe this issue requires further examination and I would encourage WACSSO and the DET to consider whether it is appropriate to apply such a prohibition or if there is some other action that can be taken to prevent a repeat of the events at BSHS P & C.

DISSENT FROM RECOMMENDATION 11

- 1.6 I dissent from Recommendation 11 for the following reasons.
- 1.7 The recommendation is very broad in its terms and the report contains no specific justification for how the recommendation was arrived at or is justified.

- 1.8 The committee, at paragraph 1.29 point out that:

The private provider was providing program planning, development, operations, reviews and evaluations as well as accommodation, transport, after school care and other programs initiatives. All resources for the direct delivery of the BWP, including staffing were the provider's responsibility, except for the provision of the learning environment, for example, classrooms and toilets, and administrative support which were provided through negotiation with the Principal of BSHS.

- 1.9 It is therefore clear that Hurson and its directors are responsible for the payment of all wages and superannuation for people employed by BWP.
- 1.10 The Governments obligation is to ensure that they have paid all the money that they owe to Hursons for the services they provided. The report does not indicate that the committee has identified any outstanding payments owed to Hursons.
- 1.11 Despite this being the case the DET has already negotiated with many of the staff, involved in the school based element, of BWP who claimed that they were owed salary payments. Once agreement was reached, payments were made to Hurson who then paid the individuals concerned. (See paragraph 3.161)
- 1.12 The DET concluded they had no obligation to meet the salary for people involved in the accommodation component which was the full responsibility of Hurson. (See Para 3.160)
- 1.13 The school based element of the program was held in the grounds of BSHS and there was some departmental involvement in the commencement of the program. This would clearly provide some moral justification for assisting the staff.
- 1.14 The accommodation component of the program was established by Mr Michael Carton independent of MITS or Hurson. The accommodation component was not included in the original MITS/BSHS proposal. (Para 4.4) There was also no Government involvement in its establishment.
- 1.15 It was conducted at private rented accommodation arranged by Mr Michael Carton in Joondalup, well away from BSHS.
- 1.16 Before a payment is made by the Government to a former employee of the accommodation component there is a need to determine the basis for making that payment.

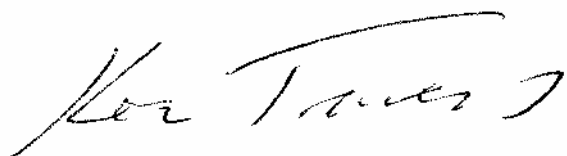
- 1.17 It is impossible to understand why the majority of the committee supported the recommendation. Nowhere in the Report is there any explanation as to the majorities reasoning for why the recommendation is made.
- 1.18 Any payment without clearly understood reasons will set an interesting precedent for a person who is employed by a company that provides a service to Government and is not paid their wages.
- 1.19 Also there are a number of other issues that would need to be taken into consideration before any payments are made to certain individuals who were employed by BWP. They are:
- Allegations regarding inappropriate conduct by a small number of people employed in the accommodation component of the program. (See paragraph 4.56)
 - Some people employed in the accommodation component of the program were closely related to the key people responsible for the failure of the program.
 - Some of the staff colluded with Mr Michael Carton in covering up some of the programs deficiencies. (See paragraph 1.36)
- 1.20 There is no doubt that the events surrounding the BWP has clearly left many of the former employees emotionally and financially scarred. It is understandable that the members of the committee feel extremely sorry for the many good people who suffered as a result of the actions of Mr Michael Carton and Mr Mervyn Hammond.
- 1.21 However this alone does not justify the Government paying the outstanding wages owed by Hurson.
- 1.22 The Estimates and Financial Operations Committee is charged with overseeing the financial administration of the State. It is therefore extraordinary that the majority of that committee has made a recommendation for the Government to pay the staff wages of a private, for profit organisation, without providing any argument or justification in their report for why they believe these payments are warranted.
- 1.23 The DET has, as they should have, accepted responsibility and provided assistance to those that were engaged in the school based component of the program to recover outstanding wages.
- 1.24 I request the Government examine whether any Department still has any debt owing to Hurson for the services they provided. If any debt is still owing I would urge the Government to try and assist staff to receive their outstanding wages as DET previously did.**

1.25 In providing any assistance I would urge the Government to consider the three categories of former staff, outlined above, who do not deserve any payments in my view.

1.26 In making this request I do not wish to provide false hopes to the former staff, something which I believe the majority recommendation does. It is my view that it is unlikely that there are any outstanding amounts owing.

IN CONCLUSION

1.27 I again want to indicate I feel very sorry for the many dedicated staff exploited, abused and ripped off by Mr Michael Carton. Mr Carton was clearly an extremely charismatic person who was both a hopelessly incompetent administrator and I suspect on the evidence available a devious and corrupt conman.

A handwritten signature in black ink, appearing to read 'Ken Travers', is positioned above a horizontal line.

Hon Ken Travers MLC

Date: 29 May 2008