



THIRTY-NINTH PARLIAMENT

REPORT 65

**STANDING COMMITTEE ON ESTIMATES AND
FINANCIAL OPERATIONS**

AGENCY ANNUAL REPORT HEARINGS 2014-15

Presented by Hon Ken Travers MLC (Chair)

August 2016

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:

“3. Standing Committee on Estimates and Financial Operations

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

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

3.3 The functions of the Committee are to –

(a) consider and report on –

- (i) the estimates of expenditure laid before the Council each year;
- (ii) any matter relating to the financial administration of the State; and
- (iii) any bill or other matter relating to the foregoing functions referred by the Council;

and

(b) consult regularly with the Auditor General.”

Members as at the time of this inquiry:

Hon Ken Travers MLC (Chair)

Hon Peter Katsambanis MLC (Deputy Chair)

Hon Liz Behjat MLC (until 9 May 2016)

Hon Alanna Clohesy MLC

Hon Rick Mazza MLC

Hon Helen Morton MLC (from 10 May 2016)

Staff as at the time of this inquiry:

Alex Hickman (Advisory Officer (Legal))

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Government Response

This Report is subject to Standing Order 191(1):

Where a report recommends action by, or seeks a response from, the Government, the responsible Minister or the Leader of the House shall provide its response to the Council within not more than 2 months or at the earliest opportunity after that time if the Council is adjourned or in recess.

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

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**EXECUTIVE SUMMARY, FINDINGS AND RECOMMENDATIONS FOR THE
REPORT OF THE STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS
IN RELATION TO THE
AGENCY ANNUAL REPORT HEARINGS 2014-15**

EXECUTIVE SUMMARY

- 1 The Standing Committee on Estimates and Financial Operations (Committee) conducted hearings in relation to 2014-15 Agency Annual Reports in November and December 2015, and January 2016.
- 2 While the Committee was generally pleased with the conduct of the hearings, with a good cross-section of questions asked by Members and a large number of matters canvassed, the Committee encountered issues during the process which impacted upon its ability to effectively scrutinise the financial administration of the State, such as:
 - not being provided with Strategic Asset Plans of a number of agencies
 - not receiving answers to a number of questions on the basis they were ‘not within the scope of or related to the 2014-15 Annual Report’
 - receiving conflicting evidence on the use by Western Australia Police of its credit cards.
- 3 The Committee again encountered failures to comply with section 82 of the *Financial Management Act 2006* requiring the tabling of a notice in Parliament following the refusal by a Minister to provide the Committee with requested information.

^ FINDINGS AND RECOMMENDATIONS

- 4 The Committee has made three Findings and seven Recommendations, which are grouped as they appear in the text at the page number indicated:

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Finding 1: The Committee finds that the inconsistent information provided to the Committee by Western Australia Police fails to meet the standard expected of an agency reporting to the Parliament and the taxpayers of Western Australia.

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Finding 2: The Committee finds that information forecasting long term demands (at least 10 years) on agency resources with respect to management of existing assets and investment in new assets should be made publicly available.

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Recommendation 1: The Committee recommends that the Government establish mechanisms for ensuring information forecasting long term demands (at least 10 years) on agency resources with respect to management of existing assets and investment in new assets, is available as part of its financial reporting processes.

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Recommendation 2: The Committee recommends that the Minister for Education table in the Legislative Council information from the Department of Education's existing Strategic Asset Plan with Cabinet deliberations and decisions removed as soon as possible and in accordance with the recommendations contained in Auditor General's Report 18, *Opinions on Ministerial Notifications*.

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Recommendation 3: The Committee recommends that the Minister representing the Minister for Health table in the Legislative Council information from the Department of Health's existing Strategic Asset Plan with Cabinet deliberations and decisions removed as soon as possible and in accordance with the recommendations contained in Auditor General's Report 18, *Opinions on Ministerial Notifications*.

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Recommendation 4: The Committee recommends that the Attorney General representing the Minister for Police table in the Legislative Council information from the Strategic Asset Plan of Western Australia Police with Cabinet deliberations and decisions removed as soon as possible and in accordance with the recommendations contained in Auditor General's Report 18, *Opinions on Ministerial Notifications*.

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Recommendation 5: The Committee recommends that Ministers ensure they comply with section 82 of the *Financial Management Act 2006* by causing written notice of a decision not to provide to Parliament information concerning any conduct or operation of an agency to be laid before each House of Parliament within 14 days after making that decision.

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Recommendation 6: The Committee recommends that the Premier issue a Ministerial Office Memorandum reminding Ministers of the requirement to comply with section 82 of the *Financial Management Act 2006*.

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Finding 3: The Committee finds that the direction issued by the Minister for Transport prevented the Committee from undertaking its work to scrutinise the financial administration of the State in particular with regard to Fremantle Port and its proposed sale.

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Recommendation 7: The Committee recommends that the Minister for Health table a notice in accordance with section 82 of the *Financial Management Act 2006* regarding his decision not to provide the Parliament with the information as detailed in paragraphs 3.66 and 3.67 of this report.

REPORT OF THE STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

IN RELATION TO THE

AGENCY ANNUAL REPORT HEARINGS 2014-15

INTRODUCTION

The Committee's function of expenditure

- 1.2 It is a function of the Estimates and Financial Operations Committee (Committee) to consider and report to the Legislative Council on the estimates of expenditure laid before the Legislative Council each year and any matter relating to the financial administration of the State.¹
- 1.3 Government revenue goes into the Consolidated Account,² which is the major source of funding for the State Public Sector.³ The 'estimates of expenditure' comprise the Appropriation (Consolidated Account) Bills and the supporting documentation (Budget Papers). These are presented to Parliament on an annual basis in order that Government may access or 'appropriate' money from the Consolidated Account to fund expenditure by the Government over a given financial year.⁴
- 1.4 This report relates to the Committee's investigation into State expenditure and financial administration of the 2014-15 budget cycle; focusing on the final stage of the process, the 2014-15 Annual Reports.⁵ Hearings in relation to these Annual Reports were conducted in November and December 2015, and January 2016.

Annual Reports

- 1.5 Annual reports are an important tool in assisting the public's understanding of the operations of government agencies, as well as ensuring financial and performance accountability to Parliament.
- 1.6 Section 64(1) to (3) of the *Financial Management Act 2006* (FMA) states:

¹ Term of reference 3.3 (a).

² Subsequent to the assent of the *Financial Management Act 2006* on 21 December 2006, the Consolidated Fund is now called the Consolidated Account.

³ The major revenue sources for the Western Australian Government include taxes, imposts, rates, duties and royalties: *Constitution Act 1889*, s 64 and *Financial Management Act 2006*, s 8.

⁴ *Constitution Act 1889*, s 72.

⁵ The 2014-15 Budget Statements were tabled in the Legislative Council on 25 June 2014. The Appropriation (Consolidated Account) Capital 2014-15 Bill 2014 and the Appropriation (Consolidated Account) Recurrent 2014-15 Bill 2014 were assented to on 25 August 2014.

61. Annual reports, contents of etc.

- (1) *After the end of each financial year the accountable authority of an agency is to prepare an annual report that contains —*
- (a) *financial statements for the financial year; and*
 - (b) *key performance indicators; and*
 - (c) *a report on the operations of the agency during the financial year; and*
 - (d) *any information prescribed by the Treasurer's instructions; and*
 - (e) *if applicable, the reports referred to in subsections (2) and (3); and*
 - (f) *any other information required by a written direction given by the Minister*
- (2) *The accountable authority of an agency is to include in the annual report for a financial year covered by a resource agreement a report on the extent to which the agency achieved any objectives described in the resource agreement.*
- (3) *An agency that —*
- (a) *is a department or statutory authority; and*
 - (b) *has an affiliated body or a related body, is to include in the annual report for a financial year a report on the affiliated body or related body that contains in respect of the financial year the information prescribed by the Treasurer's instructions.*⁶

1.7 Annual reports are to be tabled in each House of Parliament within 90 days of the end of the financial year.⁷

⁶ *Financial Management Act 2006*, s 61(1)-(3). See also Treasurer's instruction 904: *Key Performance Indicators*, for further information about disclosure of performance information and Treasurer's instruction 808: *Resource Agreement*, for further information about disclosure against resource agreements.

⁷ *Financial Management Act 2006*, s 64.

The Committee's approach

1.8 The Committee conducted its inquiries relating to the Agency Annual Report hearings in accordance with the Committee's Procedure Policy by:

- examining selected annual reports
- submitting questions to entities prior to hearings
- conducting hearings with the agencies identified in the timetable tabled in the Legislative Council⁸
- requesting answers to questions taken on notice during the hearings.

2 HEARINGS

2.1 The Committee held hearings on 16 November 2015, 7 to 10 December 2015 and 27 January 2016, to assist in determining which agencies to examine, the Committee authorised Members to consult with their colleagues.

2.2 The Committee continued with the practice of inviting Members to ask questions of all agencies prior to the hearings, regardless of whether that agency subsequently appeared. Eight Members submitted questions and the answers were given a public status and provided to the Member prior to the hearing.

2.3 The Committee gave priority to conducting hearings with larger government agencies and Members were notified and invited to participate. Details of the hearings were posted on the Committee's website.⁹

2.4 A list of the agencies with whom the Committee held hearings and a summary of some of the subjects discussed is set out at Table 1.

Table 1

2014-15 Agency Annual Report Hearings

Date and agency	Summary of subjects discussed
16 November 2015 Department of the Legislative Council and Parliamentary Services	<ul style="list-style-type: none"> • Streamline budget program and an increase in appropriations by 2 per cent • capital works program • Strategic asset management plan • cash holdings

⁸ Western Australia, Legislative Council, Standing Committee on Estimates and Financial Operations, Report 56, *2014-15 Annual Report Hearings Revised Timetable*, 1 December 2015.

⁹ www.parliament.wa.gov.au/est

<p>Department</p>	<ul style="list-style-type: none"> • Parliamentary precinct master plan and the parliamentary precinct review of accommodation • Parliament remodelling costing • Parliament precinct legislation • Aboriginal reconciliation plan for Parliament and flying of the Aboriginal flag at the Parliament • proposed acquisition of 3 Harvest Terrace West Perth • the need for a parliamentary annexe within the parliamentary precinct and parliament buildings generally • damage to the parliament building from water and white ants • storage space for equipment and records • community engagement with the Parliament and Parliamentary buildings • security of parliamentary buildings, including staff security • use of security personnel by visiting dignitaries within the parliamentary precinct • software upgrades of Microsoft and Lotus Notes and Parliament website upgrades • broadcasting infrastructure • photographic portraits displayed in Parliament House • Parliamentary library café • Parliamentary education tours • occupational safety and health plan and reviewing outstanding OSH issues • delegations with the President of the Legislative Council • appropriation process for Parliamentary Services Department and the Legislative Council • effectiveness indicators for procedural advice, administrative support and support of the Committees of the Legislative Council • management and funding of electoral staff and offices • Legislative Council website statistics and tabled papers
<p>7 December 2015 Western Australia Police</p>	<ul style="list-style-type: none"> • current and non-current assets held by the department • expenses of police service delivery in regional and remote Western Australia • access to the department's Strategic Asset Plan • land packages identified for disposal • net cost of services concerning Royalties for Regions funding • evidence based policing • Bigger Picture Policing Frontline 2020 campaign

	<ul style="list-style-type: none"> • collation of 6000 incident reports to assess the crime rate of the winter period • State Control Centre and senior management monitoring demand • police response times for priority one and priority two jobs within the metropolitan area • allocation of police resources in regional Western Australia • key effectiveness indicator for percentage of the community who are satisfied or very satisfied with the service received by Western Australia Police • methodology used to identify community satisfaction rating with Western Australia Police • key performance indicators for offences against property and the link to illicit drug use • domestic violence - key performance indicators, national strategy, police workload, response time and how this is recorded, Domestic Violence Senior Officers Group • family and domestic violence response teams and how cases are triaged and factors used to measure success • strategies to monitor changing attitudes for attending police officers when dealing with matters of domestic violence • police orders and police assisted violence restraining orders • terms of reference for the Perpetrator Engagement Pilot Project¹⁰ • drug enforcement - Programs to combat illicit drugs, including methamphetamine, Western Australian methamphetamine enforcement plan, Methamphetamine users and volume crime statistics • Operation Drone, a multi-agency operation with cooperation with federal agencies on organised crime syndicates • proceeds of crime and the value of assets seized by police • seized monies trust account and proceeds of crime • targeting mid-level offenders • Operation Character: asking offenders what the drivers are for their offending • vehicle break-ins and area hotspots in the metropolitan area • Operation Turning Point: alternative processing of offenders for low-harm offences • community engagement with ethnic communities within
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¹⁰ Hon Liza Harvey MLA, Minister for Police, Answer to Question on Notice A8 asked at hearing held on 7 December 2015, dated 13 January 2016, p 3 and Attachment B.

	<p>Western Australia and community engagement officers</p> <ul style="list-style-type: none"> • outsourcing of security services • Travel expenses incurred by the department • doubtful debts and impoundment of vehicles • new computer system for licencing firearms, pawnbrokers and crowd controllers • increase in fees for firearm licences • The number of full time positions in the victim support unit and its allocated budget • consideration of obtaining qualitative data analysis software • security of web based systems • PayPass fraud and links to an increase in vehicle break-in offences • problems with web links opening on upgraded website and a lack of data on crime statistics • backlog for maintenance work at police facilities • clearance rates at metropolitan police lockups • school leavers week Grant payments to Police and Citizen Youth Centres • protective measures for officers attending court • workforce optimisation project to get the best from the workforce in terms of capability and flexibility • expenditure for recruitment advertising • savings from the voluntary severance separation scheme • post-separation medical benefits • leave liabilities
<p>7 December 2015 Department of Corrective Services</p>	<ul style="list-style-type: none"> • total prison population and population by various categories of prisoners • prisoners who have an intellectual disability • prison population of Bandyup Women’s Prison • Women’s Estate Reference Group • operational date for the women’s Hakea Remand Facility • major reforms program • serious assaults in the prison system • medical treatment for staff and prisoners resulting from assaults in prison • strategies to increase staff and prisoner safety • New Operating Standards and Procedures Directorate • illicit drugs in the prison system • drug testing of prison officers • development of the regulations for the new loss of

	<p>confidence procedures under the <i>Custodial Legislation (Officers Discipline) Amendment Act 2015</i></p> <ul style="list-style-type: none"> • Auditor General's qualified audit findings • the number of prisoner escapes • transport of prisoners • foetal alcohol spectrum disorder and Banksia Hill Detention Centre • juvenile transports from the Kimberly and Pilbara to metropolitan detention centres • commissioning of the new Eastern Goldfields Regional Prison
7 December 2015 Building Commission	<ul style="list-style-type: none"> • home indemnity insurance scheme • underwriting arrangements with insurers • builder complaints to the Commission • instances where builders have not taken out insurance in a timely fashion • the number of prosecutions undertaken by the Commission • statistics of the type and duration of complaints to the Commission • survey undertaken for customer satisfaction rating • the number of site audits the Commission has undertaken • increase in the building services levy
8 December 2015 Department of Education	<ul style="list-style-type: none"> • access to the department's Strategic Asset Plan • cash value of workplace reforms • workforce renewal policy • principal vacancies and recruitment • ember screen installations at schools on the department's bushfire register • infill of students where schools are located • planning for growth and identification of new sites • NAPLAN online program¹¹ • public private partnerships for schools and the Harper review into competition policy¹² • discussion of the estimated gains using public private partnerships in building programs • gender specific classrooms • the time taken to deal with misconduct allegations and the number of open complaints

¹¹ National Assessment Program - Literacy and Numeracy.

¹² See <http://competitionpolicyreview.gov.au/final-report/>.

	<ul style="list-style-type: none"> • the number of full time positions in the Standards and Integrity Directorate • the number of full time positions within the department • procedures used to fill vacancies • information, communication and technology roll out of new computers in schools • standard operating environment program • the number of school closures • evaluation of key performance indicators for literacy and numeracy (NAPLAN) • year seven cohort transition and building additional capacity • switch program for teachers moving from primary to secondary schools • the decline in the number of male teachers in primary schools • capital works program and Caversham South Primary School • demographic numbers for the Caversham district • Aboriginal and Islander Education Officers • Aboriginal student education programs • pressure of student numbers in inner-city and western suburbs • Old Perth Girls School site • Fremantle College costs • School Budget Review Committee and unsuccessful applicants • leave liabilities • costs of the Bigger Picture advertisement campaign • protective isolation rooms
<p>8 December 2015</p> <p>Department of the Premier and Cabinet</p>	<ul style="list-style-type: none"> • full time employment position allocation for the Office of the Premier and Ministers offices • release of the Ministerial Code of Conduct • Strategic Asset Plans and their status • environmental assessment bilateral agreement with the Federal Government • meetings with Infrastructure Australia as part of their audit of national infrastructure • deregulation recommendations in the Competition Policy Review (March 2015) by Professor Ian Harper, Peter Anderson and Su McCluskey • employees with disabilities and the substantive equality

	<p>framework group</p> <ul style="list-style-type: none"> • review of the department's disability access and inclusion plan • advertisement of 41 positions within the department • latest members' interest return for the Minister for Transport • new redeployment and redundancy arrangements for the public sector • savings from implementing the workforce renewal policy • Western Australian Government offices located overseas, specifically China • execution of the Murchison Radio-astronomy Observatory Indigenous Land Use Agreement • parliamentary and electorate office and officer entitlements • department policy on the National Broadband Network rollout • internet service providers and the low data speeds in electorate offices • cap on relief hours for electorate officers • the number of electorate office site visits • Coastal Towns and Settlements Cabinet Subcommittee • former Minister Baston advising his department of his conflict of interest in the privatisation of the Perth Market Authority • suggestion of a public conflicts register • strategic assessment of the Perth and Peel region master plans • Keralup land development • recreational fishing initiatives • the annual cost of security for Hale House
<p>8 December 2015</p> <p>Department of Fire and Emergency Services</p>	<ul style="list-style-type: none"> • State Emergency Management Committee Parkerville bushfire review • strategic approach to implementing the findings of the review into the DFES strategic plan • major incident review for the Esperance bush fires • discussion on volunteer bushfire brigades management and training • radio communications and the Esperance bushfires • telephone/sms warning system for the Ellenbrook fires • workforce diversity and women fire-fighters • costs and effectiveness measures for the 'Are you bushfire ready' campaign

	<ul style="list-style-type: none"> • total number of FTE for the department • the number of apprentices and trainees working for the department • the use of labour hire firms by the department • review of the O'Connor workshops • crew protection program • disability Access and Inclusion Plan and return to work programs • methodology for defining locations as 'bush' locations • determining bushfire risk areas
<p>9 December 2015</p> <p>Department of Planning</p>	<ul style="list-style-type: none"> • rural to urban expansion and planning changes as part of Perth and Peel@3.5 million¹³ • implementation of the ePlan online system • planning activity in the Midwest • Middleton Beach Hotel redevelopment • occupational health and safety performance within the department • new train stations at Forresterfield and Airport West and impact on jobs and new infrastructure development • future car parking requirements at metropolitan train stations • potential sites for new schools in inner Perth suburbs • consultation with Department of Education regarding school sites generally • Perry Lakes redevelopment project • department's Audit and Risk Management Committee and conducting of an internal audit • development assessment panel process and outcomes
<p>9 December 2015</p> <p>Western Australian Planning Commission</p>	<ul style="list-style-type: none"> • transport route planning initiatives, including Ranford Road and Henley Brook Avenue • Roe 8 metropolitan region scheme land reservations and planning controls • re-zoning of Gidgegannup and associated infrastructure considerations • reviews of planning decisions by the State Administrative Tribunal • state planning policy for bushfire-prone areas, the impact on building costs for new homes and implications of the Keelty Report • suburban infill and future planning for amenities and green

¹³ Department of Planning, *Perth and Peel@3.5 million*, May 2015. Available at: http://www.planning.wa.gov.au/dop_pub_pdf/Perth_Peel3.5million.pdf. Viewed 14 April 2016.

	<p>space</p> <ul style="list-style-type: none"> • metropolitan regional improvement fund and expected expenditure • streamlining of planning processes as part of planning reforms • Stirling Highway activity corridor and long-term planning
<p>9 December 2015</p> <p>Metropolitan Redevelopment Authority</p>	<ul style="list-style-type: none"> • Elizabeth Quay development: advertising, pedestrian safety considerations, transport services planned for Barrack Street jetty and construction budgets and negotiations for lots 1 through 10 • Scarborough redevelopment project and funding from City of Stirling • marketing and advertising budget and expenditure and agreement with Carat in relation to the Bigger Picture campaign • Claisebrook depot redevelopment costs • liaison with the Department of Education for future school sites in the metropolitan area • Perth City Link land sales and negotiations
<p>9 December 2015</p> <p>Department of Lands</p>	<ul style="list-style-type: none"> • financial targets and increase in costs and expenses in the 2014 -15 budget • land asset sales program and management of surplus properties owned by State departments and agencies • potential future school sites in inner Perth suburbs • unsolicited bids process for land asset sales • pastoral lease renewals • contaminated site at Wittenoom and remediation strategy • administered land sales targets • rangelands reform project and amendments to the <i>Land Administration Act 1997</i> • property sales including Fremantle Police Station, former Yirra Yaakin theatre site, Swan District Hospital and Princess Margaret Hospital site
<p>9 December 2015</p> <p>Fremantle Ports Authority</p>	<ul style="list-style-type: none"> • Ministerial direction from the Minister for Transport to the Authority not to provide certain financial information to the Committee related to the proposed divestment of Fremantle Port (see paragraphs 3.58 to 3.65). • increase in revenue as a result of cargo charges and extraordinary payments • iron ore shipments and port capacity • Rous Head harbour incident of elevated levels of copper in sediment and water

	<ul style="list-style-type: none"> • number of trade debtors and amount of debt owing to creditors • cruise ship tourism and tourism attraction strategy • Strategic Asset Plan • decline in non-containerised trade in the inner harbour • dividend figures and payments
<p>10 December 2015</p> <p>Department of Health</p>	<ul style="list-style-type: none"> • reconfiguration and restructure of metropolitan area health service, including new East Metropolitan Health Service and new Midland Health Campus • management of the new Fremantle-Fiona Stanley hospital group and administrative arrangements • ‘Bed status black’¹⁴ and variations in capacity in hospitals • new St John of God Midland Public Hospital and transfer arrangements for patients to Sir Charles Gairdner Hospital • annual report to the Minister on abortions occurring post 20 weeks • immunisation programs for children in metropolitan and regional Western Australia • accreditation of doctors to perform tonsillectomies in regional areas • access to dialysis for regional patients and home dialysis arrangements • Quadriplegic Centre and future care model and transition plan for patients • rate of ‘avoidable admissions’ to hospitals in the State • meeting the National Efficient Price¹⁵ • security services and money spent to address security issues • posthumous collection of gametes¹⁶ • level of service for hospitals recorded in clinical services framework • car parking fees at QEII campus • Strategic Asset Plan
<p>10 December 2015</p>	<ul style="list-style-type: none"> • asset sales program, including Government Regional Officers’ Housing surplus stock sell-off and effect on Keystart loans

¹⁴ This is a process that alerts staff that a hospital is reaching capacity (see <http://ww2.health.wa.gov.au/News/Director-General-explains-bed-status>).

¹⁵ The Independent Hospital Pricing Authority established under the *National Health Reform Act 2011* (Cth), is invested with the function of determining the national efficient price for health care services provided by public hospitals where the services are funded on an activity basis.

¹⁶ A gamete is a cell that fuses with another cell during fertilization (conception) in organisms that sexually reproduce.

Housing Authority	<ul style="list-style-type: none"> • future relocation of departmental office to Fremantle • asbestos management and claims of asbestos-related illnesses • effect of new fire regulations on the cost of new departmental housing • waiting times for applications for housing • public housing stock redevelopment and new public housing dwellings planned • public-private partnerships to develop public housing and future developments • mobility drivers for public housing tenants and how tenants are transitioned to alternative accommodation when necessary • Osprey Key Worker Village, South Hedland and Avon Village, Northam • Pelago West apartments in Karratha • current financial status of the Housing Authority and loan guarantee fee • potential development of east and west Keralup • future public housing to be built in close proximity to metropolitan train stations and density strategy
10 December 2015 Department of Parks and Wildlife	<ul style="list-style-type: none"> • increase in management costs as a result of fire suppression activity • creation of jointly managed parks and reserves through Indigenous Land Use Agreements • Parks for People program and upgrading of existing facilities • Wetlands Coordinating Committee role and functions • Ramsar Convention wetlands and management plans required to protect wetlands' value according to Commonwealth legislation • Eradicat® bait trial for fox and feral cat control¹⁷ • biodiversity audit 2 program and release of audit results • update of the status of threatened species and ecological communities • bushfire mitigation strategy and prescribed burn program • new Bunbury headquarters: environmental studies, site design and allocation of staff to new headquarters • management plans for conservation reserves and marine parks

¹⁷ Eradicat® bait is used for the management of feral cat populations in Australia and is a registered trademark of the Western Australian and Commonwealth governments.

	<ul style="list-style-type: none"> • implementation of new biodiversity conservation legislation • beach shack lease licensing and revenue
<p>10 December 2015</p> <p>Department of Fisheries</p>	<ul style="list-style-type: none"> • Cockburn Sound fish deaths and impact of algal blooms on fisheries • closure of the commercial G-trap herring fishery • staff on employment contracts • qualified audit from the Auditor General and implications for departmental employee conditions and benefits • compliance and monitoring staff numbers • crossover of compliance activities with Department of Parks and Wildlife and Department of Transport • viability of aquaculture in Western Australian waters • Western rock lobster fishery sustainability strategy
<p>27 January 2016</p> <p>Water Corporation</p>	<ul style="list-style-type: none"> • the sale of the construction division of the Corporation, including the business case, profit made and costs of the sale • membership of the Board of the Corporation • increase in the percentage of water that is recycled water • sites for the recycling of water • groundwater replenishment scheme • injection of water into aquifers • minimising loss of water from pipe leakage • water pressure management trials • campaigns to change customer behaviour, including impact of the 'Drop 2' campaign • annual water supply per capita • management of payment of water bills • completion of sewer infill program in major regional towns • ownership and regulation of water catchment areas • time from planning to operation of desalination plants • water efficiency measures • construction of the Jandakot bore mound • reduction in employee numbers • WorkSafe incident at Wyalkatchem • savings from redundancies
<p>27 January 2016</p>	<ul style="list-style-type: none"> • iron ore and other revenue forecasting methodology • forecasting of GST relativities¹⁸ • the Streamlined Budget Process¹⁹

¹⁸ The portion of GST a state gets relative to an equal per-capita distribution.

Department of Treasury	<ul style="list-style-type: none"> • GST reform and additional funding from the Commonwealth • savings in and reform of information and communications technology across government • role of the Government Chief Information Officer²⁰ • asset sales program, including divestment of part of the Keystart loan book • guidelines for unsolicited bids developed by the Department of Lands for asset sales • recruitment freeze for the public sector and exemptions • increased turnover rate in the department. • drop in severance payments and superannuation expenses • addressing delays in the submission of resource agreements by agencies to the department • the value of contingent liabilities for the Perth Stadium and ongoing annual payments • investment in Western Australian Treasury bonds by the Future Fund • meetings and work of the Treasury Diversity Committee • sale of Fremantle Port • profit and loss of Utah Point Bulk Facility • new process for predicting the needs of the Department for Corrective Services • payment of a dividend of \$93 million by the Insurance Commission of Western Australia
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Questions by Members

- 2.5 During the hearings a number of questions were taken on notice.
- 2.6 Where a Member was unable to ask all their questions during the hearing they were provided with the opportunity to submit additional questions to the agency. Copies of the answers to questions provided prior to and after the hearings are on the Committee's website.

¹⁹ The Streamlined Budget Process was implemented as part of the 2015-16 Budget to enable the Government to focus on considerations that materially impact the State's finances. See http://www.treasury.wa.gov.au/uploadedFiles/Treasury/Publications/Streamlined_Budget_Process_Policy_Principles_Agency_Guide_November_2015.pdf for further information.

²⁰ This is to provide leadership for Information and Communications Technology in WA Government. That leadership translates into improved services, transparency, governance, delivery, consistency, commonality, savings, efficiencies and reform. See <http://www.gcio.wa.gov.au/>. Viewed 12 August 2016.

3 COMMITTEE COMMENT

Generally

- 3.1 The Committee was generally pleased with the conduct of the hearings, the level of attendance and Member participation. A good cross-section of questions were asked by both government and non-government Members and a large number of matters were canvassed in the course of the proceedings, as illustrated in Table 1.
- 3.2 The Committee is committed to continually reviewing and refining its processes to ensure that effective and worthwhile estimates processes are conducted. To this end, the Committee will continue to consult with Members to improve the process.

Western Australia Police - credit cards

- 3.3 The Committee received conflicting evidence from Western Australia Police on the use of its credit cards.
- 3.4 In a question prior to hearing Hon Ken Travers asked Western Australia Police whether there had been any inappropriate use of credit cards identified in 2014-15.²¹ The Department stated there had been none.²²
- 3.5 On 16 February 2016 the Committee wrote to the Minister for Police, referring to an article in the *Sunday Times* which reported that:
- one-in-three Western Australia Police agencies has been caught misusing corporate credit cards
 - compliance audits on corporate credit card use during the 2014/15 financial year found “significant anomalies” among 15.5% of “business areas”²³
- and requested clarification on an apparent discrepancy with the answer set out in paragraph 3.4.²⁴
- 3.6 The Minister for Police responded on 11 March 2016 stating:
- The answer to the question was accurate

²¹ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Questions Prior to Hearing, 20 October 2015.

²² Hon Liz Harvey MLA, Minister for Police, Letter, 11 November 2015.

²³ ‘Calls for investigation in to WA Police credit card misuse’, *The Sunday Times*, 24 January 2016.

²⁴ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Letter, 16 February 2016.

- Western Australia Police defines ‘inappropriate use’ as ‘*the use of Purchasing Cards for improper expenditure (e.g. fraudulent use or misappropriation of funds; the purchase of illegal or prohibited goods and services, etc)*’
- The matters discussed in the article do not involve fraudulent use or misappropriation of funds, or the purchase of illegal or prohibited goods and services
- Western Australia Police has policies, procedures and controls in place to mitigate the risk of inappropriate purchasing card use and that the agency’s ‘Financial and Asset Management Manual’ (FAMM) guides and outlines policies to all Western Australia Police members relating to the use of purchasing cards.²⁵

3.7 The Committee requested a copy of the FAMM and any other documentation regarding how ‘inappropriate use’ is defined.²⁶ It received the following documentation from the Minister (none of which contains a definition of ‘inappropriate use’):²⁷

- Travel Policy for Purchasing Cards
- an extract of the FAMM containing the Purchasing Card Policy
- Western Australian Government Purchasing Card Guidelines.²⁸

3.8 The Committee notes that while the most recent audit by the Office of the Auditor General of Government purchasing cards ‘*found no instances of cards being used inappropriately*’,²⁹ the Office has advised:

Our Office does not have a specific definition for what constitutes an inappropriate use of government purchasing (credit) cards.

²⁵ Hon Liza Harvey MLA, Minister for Police, Letter, 11 March 2016.

²⁶ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Letter, 22 March 2016.

²⁷ See Western Australian Government Purchasing Card Guidelines, 18 November 2015, p5, which states that purchasing cards must not be used for a personal purpose. See also Treasurer’s Instruction 321, which states:

A credit card is not to be used for a personal purpose. A ‘personal purpose’ is a purpose that is not directly relating to performing functions for the agency.

²⁸ Hon Liza Harvey MLA, Minister for Police, Letter, 4 April 2016.

²⁹ Office of the Auditor General, *Controls Over Purchasing Cards*, 1 April 2014. Available at: <https://audit.wa.gov.au/reports-and-publications/reports/across-government-benchmarking-audits/controls-purchasing-cards/> Viewed 22 April 2016.

*Agencies must follow the Department of Finance's WA Government Purchasing Card Guidelines and the TI321 – Authorised Use - and have in place their own individual policies covering the use of purchase (credit) cards.*³⁰

3.9 The Committee subsequently requested additional information from the Minister, including versions of the above documentation, as well as the entire FAMM, which were applicable to the events the subject of the article in the *Sunday Times*. The Committee also requested copies of all internal communications within the Department relevant to those events.³¹

3.10 While the Committee received the requested versions of the documentation, the Minister gave the following response to the request for details of internal communications:

*In relation to your request for copies of communication within WA Police and with my office regarding the article in the Sunday Times, WA Police advise that it is not clear from your request the exact documents you are seeking. Some of the documents, which may fall within the scope of the description, are not considered relevant to the financial governance issue being considered whilst others might properly be subject to a claim for privilege.*³²

3.11 During a hearing as part of the 2016-17 Budget Estimates a question was placed on notice regarding whether there are examples of inappropriate use 'in the broadest possible sense'.³³

3.12 Western Australia Police provided the following answer:

Business area compliance audits undertaken by the Management Audit Unit have not identified instances of fraud in relation to credit card use during the 2014-15 and 2015-16 fiscal years.

There are, however, a number of findings listed in the 2 attachments covering the periods 2014-15 (attachment 1) and 2015-16 (attachment 2) that in the broadest sense can be classified as "inappropriate" or anomalies. For the purpose of the audit, the use of a credit card is deemed to fall into this category where in the

³⁰ Peta Mellane, Executive Officer to the Auditor General for Western Australia, Office of the Auditor General, Electronic Mail, 22 April 2016.

³¹ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Letter, 10 May 2016.

³² Hon Liza Harvey MLA, Minister for Police, Letter, 16 May 2016.

³³ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, *Transcript of Evidence*, 17 June 2016, p 40.

opinion of the auditor its use is not in accordance with WA Police policies, procedures and legislative requirements.

Matters of a clerical or administrative oversight, including coding errors, missing supporting documentation, and timeliness of approval whilst still reported for attention by management, are excluded from this response as the use of the card is deemed to be appropriate in these circumstances.³⁴(Committee emphasis added)

3.13 This answer is inconsistent with that referred to in paragraph 3.4.

Finding 1: The Committee finds that the inconsistent information provided to the Committee by Western Australia Police fails to meet the standard expected of an agency reporting to the Parliament and the taxpayers of Western Australia.

Memorandum of Understanding between Seven Media and Carat West

3.14 In a question on notice arising from a hearing with the Metropolitan Redevelopment Authority (MRA) on 9 December 2015 regarding a Memorandum of Understanding (MoU) between Seven West Media and Carat on behalf of the MRA³⁵ Hon Sue Ellery asked:

Why is the information in Item 4 of the MoU confidential and why can it not be provided to Parliament?³⁶

3.15 The then Minister for Planning, Hon John Day MLA, provided the following answer:

The confidential information, while not defined within the MOU, relates to data files and associated project and technical information supplied to develop the activation experiences. The clause was included in the MOU to ensure this information was not used by either party, or supplied to third parties, without the appropriate permissions.³⁷

³⁴ Western Australia Police, Answer to Question on Notice A34 asked at a hearing held 17 June 2016, dated 7 July 2016. Copies of the attachments referred to are on the Committee's website.

³⁵ See Mr Kieran Kinsella, Chief Executive Officer, Metropolitan Redevelopment Authority, *Transcript of Evidence*, 9 December 2015, pp 10-11.

³⁶ Question on Notice C4(e) asked by Hon Sue Ellery MLC, 9 December 2015.

³⁷ Hon John Day MLA, Minister for Planning, Answer to Question on Notice C4(e) asked at hearing held on 9 December 2015, p 11, 13 January 2016, pp 2-3.

- 3.16 The Committee subsequently requested, and received from the then Minister, further details of this information and confirmation clause 4 of the MoU was consistent with section 81 of the *Financial Management Act 2006*,³⁸ which provides:

81. Actions etc. inhibiting etc. Minister's parliamentary functions prohibited

The Minister and the accountable authority of an agency are to ensure that —

(a) no action is taken or omitted to be taken; and

(b) no contractual or other arrangement is entered into, by or on behalf of the Minister or agency that would prevent or inhibit the provision by the Minister to Parliament of information concerning any conduct or operation of the agency.

Department of Corrective Services

Drug testing of staff

- 3.17 During a hearing on 7 December 2015 the Committee was informed by the Department of Corrective Services that staff are not tested for drugs,³⁹ which surprised Committee members. This was demonstrated by the following remarks.

Hon RICK MAZZA: *I have to make the comment that I am a bit surprised by it. People get drug tested even when they go on a mine site these days. For prison officers not to be drug tested, it is surprising.*⁴⁰

The CHAIR: *I would have thought that drug testing was one of those things you would have some sort of random process and if your number comes up today and it comes up tomorrow, you get tested today and you get tested tomorrow. The point of random testing is that it means you can never know when you are going to be tested. It is across the board; everybody is included. There is an equity in it.*⁴¹

³⁸ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Letter, 1 February 2016.

³⁹ Mr James McMahon, Commissioner of Corrective Services, Mr Shayne Maines, Deputy Commissioner, Adult Justice Services and Mr Tony Hassall, Executive Director, Operational Services, Department of Corrective Services, *Transcript of Evidence*, 7 December 2015, p 12-13.

⁴⁰ Hon Rick Mazza MLC, Member, Standing Committee on Estimates and Financial Operations, *Transcript of Evidence*, 7 December 2015, p 12.

⁴¹ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, *Transcript of Evidence*, 7 December 2015, p 13.

Procurement and Purchasing practices

- 3.18 The Committee also heard evidence from the Department of Corrective Services during the hearing on 7 December 2015 (and subsequently received evidence arising out of a question on notice) about its procurement and purchasing practices, which included evidence about purchases by departmental staff which failed to follow proper procurement processes.⁴²
- 3.19 The Committee is following up on information it has received with the Minister for Corrective Services.

Provision of information

- 3.20 During the hearings, the Committee again encountered instances where information requested by Members was not provided. The Committee's Report 62 into its inquiry into the provision of information to Parliament further discusses this issue.

Departments of Child Protection and Family Support and Disability Services and the Mental Health Commission – answers to questions prior to hearing

- 3.21 On 20 and 30 October 2015 the Committee sent to the then Minister for Child Protection and Family Support, Mental Health and Disability Services, Hon Helen Morton MLC, questions prior to hearing submitted by Members of the Legislative Council.⁴³
- 3.22 Questions by Member, agency and number follow:

Table 2

Agency	Questions by Members
Department of Child Protection and Family Support	<p>Hon Martin Pritchard MLC: 11 questions (some multiple part) on two pages</p> <p>Hon Stephen Dawson MLC: 10 multiple part questions on two pages</p> <p>Hon Alanna Clohesy MLC: 15 multiple part questions on two pages</p>

⁴² Mr Damien Stewart, Executive Director, Corporate Support Department of Corrective Services, *Transcript of Evidence*, 7 December 2015, p 21; Mr Stephen Barton, Chief of Staff, Letter, 18 January 2016.

⁴³ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Letter, 20 October 2015 attaching Questions Prior to Hearing; Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Letter, 30 October 2015 attaching Questions Prior to Hearing.

Mental Health Commission	<p>Hon Martin Pritchard MLC: 12 multiple part questions on two pages</p> <p>Hon Stephen Dawson MLC: 15 multiple part questions on two pages</p>
Disability Services Commission	<p>Hon Stephen Dawson MLC: 26 questions (two multiple part) on two pages</p> <p>Hon Alanna Clohesy MLC: Nine questions (some multiple part) on one page</p> <p>Hon Lynn MacLaren MLC: Five questions (some multiple part) on two pages</p>

3.23 On 9 November 2015 the Minister wrote to the Committee attaching answers to the questions posed by Hon Lynn MacLaren MLC of the Disability Services Commission. The Minister also expressed concern regarding the length of time to provide answers to the other questions; the number of questions asked; the relevance of the questions to the annual reports of the agencies and questions not following a certain format.⁴⁴

3.24 The Committee addressed these concerns by:

- advising of the capacity to seek an extension of time
- referring to the multiple portfolios of the Minister and the lack of a scheduled hearing with the agencies as factors in the number of questions
- referring to the lack of a requirement in the Committee’s Procedure Policy or the Standing Orders for questions to follow the format suggested.⁴⁵

3.25 On 21 March 2016 the Minister provided answers to a number of the unanswered questions referred to in Table 2.⁴⁶

3.26 The Committee noted, in its response of 22 March 2016, that certain questions posed to the Department of Child Protection and Family Support remained unanswered on

⁴⁴ Hon Helen Morton MLC, Minister for Child Protection and Family Support, Mental Health and Disability Services, Letter, 9 November 2015.

⁴⁵ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Letter, 19 February 2016.

⁴⁶ Answers to Questions Prior to Hearings, 21 March 2016.

the basis that they were, according to the Minister, ‘*not within the scope of or related to the 2014-15 Annual Report*’ of that department.⁴⁷ The Committee stated:

*In each instance where requested information has not been provided, the Committee considers the questions were reasonable and within the scope of the 2014-15 annual report of the Department for Child Protection and Family Support. Comparative information for past and future financial years, which agencies use in their annual reports, assists Members understand the context of the information being provided. Also, sections in annual reports addressing challenges agencies face in the next financial year implies that information is available which relates to future and past financial years.*⁴⁸

3.27 The Minister responded on 30 March 2016, stating:

Again, I reiterate that my understanding of the annual report hearings is to facilitate the Committee Members to better understand and interrogate agencies regarding their operations in 2014-15.

*Any information requested outside of the 2014-15 year should be sought under other means available to Members.*⁴⁹

3.28 In a letter to Hon Andrea Mitchell MLA, the new Minister for Child Protection and Mental Health, the Committee re-iterated its view the unanswered questions were within scope of the agencies annual reports.⁵⁰

3.29 The Minister advised the Committee on 2 May 2016 that answers to all outstanding questions had been provided to the Legislative Council on 7 April 2016.⁵¹

3.30 The Committee also notes that it conducts its Annual Report and Budget Estimates hearings under the broad powers set out in its terms of reference. A range of questions may have an ‘estimates of expenditure’ or ‘financial administration’ aspect and relate to agencies Annual Report or Budget Estimates.

⁴⁷ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Letter, 22 March 2016.

⁴⁸ Ibid.

⁴⁹ Hon Helen Morton MLC, Minister for Mental Health, Disability Services and Child Protection, Letter, 30 March 2016.

⁵⁰ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Letter, 5 April 2016.

⁵¹ Hon Andrea Mitchell MLA, Minister for Mental Health and Child Protection, Letter, 2 May 2016. Copies of the correspondence noted in paragraphs 3.21 to 3.29, along with answers to questions, are posted on the Committee’s website.

- 3.31 The Committee asks that Legislative Council Members take note of the above for the purposes of future agency annual report hearings.

Access to Strategic Asset Plans of agencies

- 3.32 The Committee is concerned that it was not provided with Strategic Asset Plans during this Annual Report hearings process, despite the fact that plans have been provided to the Committee in the past.⁵²

- 3.33 An agency's Strategic Asset Plan, as part of the budget cycle, '*looks 10 years ahead to show how an agency intends to deliver practical services to the public using Government infrastructure, buildings, other assets, and related demand management initiatives.*'⁵³

- 3.34 The Department of Treasury's Strategic Asset Management Framework's policy and model for a Strategic Asset Plan states:

*An SAP is centred on an agency's future service delivery objectives and asset network. It addresses significant current and emerging gaps in an agency's ability to provide services. It prioritises asset investment proposals according to their ability to address these gaps.*⁵⁴

- 3.35 The Departments of Transport, Health, Education and Police and the Public Transport Authority were asked the following questions prior to hearings:

1) *Does [agency] have a Strategic Asset Plan?*

(a) *If yes, what is the timeframe for the plan?*

(b) *Will the Minister table the Plans for the 2014/15 and 2015/16 Financial Years?*

(c) *If no to (b), why not?*⁵⁵

⁵² See Main Roads Western Australia, *Questions Prior to Hearing*, 25 June 2014; Parliamentary Services Department, Parliament of Western Australia, Answers to generic questions, 15 June 2016, Attachments A and B.

⁵³ Government of Western Australia, Department of Treasury, *Strategic Asset Management Framework, Strategic Asset Plan*, p 2. Available at: http://www.treasury.wa.gov.au/uploadedFiles/Treasury/Strategic_Asset_Management/02SAMF_Strategic_Asset_Plan.pdf. Viewed 22 August 2016.

⁵⁴ Ibid.

⁵⁵ Question Prior to Hearing asked by Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations.

- 3.36 Each agency responded to the request acknowledging they have a Strategic Asset Plan, with a ten year timeframe or investment planning horizon. Each agency refused to provide a copy of their Strategic Asset Plan to the Committee on the basis that it is either confidential or Cabinet-in-confidence.⁵⁶
- 3.37 An exchange during a hearing with Western Australian Police, set out in Appendix 1, demonstrates the difficulty faced by the Committee in obtaining access to the Strategic Asset Plans of agencies.⁵⁷
- 3.38 During a similar exchange with the Department of Education, the Minister for Education, Hon Peter Collier MLC stated:

*We do not want to be obstructionist here. First of all, I want to check on first things: whether the asset plan has gone to cabinet. I am not convinced in my own mind whether it has or has not, so I need to confirm that. The second thing is that we will look at what we have done, as per your question, and see what we can provide as much as we possibly can in the element of transparency for the committee. Then if the committee still has concerns in terms of the fact that you are still not satisfied with what you have been provided with, we will need to perhaps reconvene with the committee after that result. If you are happy with that, we will provide you with whatever we possibly can.*⁵⁸

- 3.39 In an answer to a question on notice, the Minister responded as follows:

Department of Education

Question No. A13: Hon Ken Travers asked-

This relates to one of the questions that was asked prior to the hearing.

⁵⁶ Department of Education, *Answers to Questions prior to Hearing*, 10 November 2015; Department of Health, *Answers to Questions Prior to Hearing*, 10 November 2015; Western Australia Police, *Answers to Questions Prior to Hearing*, 11 November 2015; Department of Transport, *Answers to Questions Prior to Hearing*, 18 November 2015 and Public Transport Authority, *Answers to Questions Prior to Hearing*, 19 November 2015.

⁵⁷ Mr Anthony Kannis, Executive Director, Western Australia Police, *Transcript of Evidence*, 7 December 2016, p 36-38. See also Dr David Russell-Weisz, Director General and Ms Angela Kelly, Assistant Director General, Purchasing and System Performance, Department of Health, *Transcript of Evidence*, 10 December 2015, p 29 and Hon Peter Collier MLC, Minister for Education and Mr John Fischer, Executive Director, Infrastructure, Department of Education, *Transcript of Evidence*, 8 December 2015, p 35-36.

⁵⁸ Hon Peter Collier MLC, Minister for Education, *Transcript of Evidence*, 8 December 2015, p 36. See also Mr David Smith, Acting Director General, Department of Premier and Cabinet, *Transcript of Evidence*, 8 December 2015, p 28-29.

Please provide as much of the Strategic Asset Plan as you can without breaching Cabinet confidentiality.

Answer: The Strategic Asset Plan is part of the annual Budget process and is therefore Cabinet-in-Confidence.⁵⁹

3.40 In a letter to the Minister of 1 February 2016, the Committee stated:

Regarding the response to question A13, at the hearing on 8 December 2015 you committed to:

- confirm whether the Strategic Asset Plan was provided to Cabinet as part of a submission or just used to inform Cabinet deliberations (in other words, check whether the totality or just part of the Plan went to Cabinet); and*
- consider what information contained within the Strategic Asset Plan you were able to provide to the Committee, as much as you possibly could, in the interests of transparency.*

The response to question A13 does not appear to reflect your commitment to providing this information, which the Committee would appreciate receiving.

Notwithstanding the above, the Committee acknowledges the Auditor General will review your initial response contained in the notice pursuant to section 82 of the Financial Management Act 2006 tabled on 15 November 2015.⁶⁰

3.41 In his response, the Minister stated:

As acknowledged by the Committee, I have advised the Auditor General, pursuant to section 82 of the Financial Management Act 2006, of my decision not to release the Strategic Asset Plan.

I will respond to you in further detail once I am in receipt of advice from the Auditor General.⁶¹

⁵⁹ Hon Peter Collier MLC, Minister for Education, Letter, 6 January 2016.

⁶⁰ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Letter, 1 February 2016.

⁶¹ Hon Peter Collier MLC, Minister for Education, Letter, 12 February 2016. See also Hon Dr Kim Hames MLA, Minister for Health, Letter, 15 February 2016. Notices pursuant to section 82 of the *Financial Administration Act 2006* were also tabled by the Ministers for Police and Health with respect to the refusal to provide the Committee with copy of Strategic Asset Plans of the respective agencies. See Tabled Paper 1155, Legislative Council, 24 November 2015; Tabled Paper 3848, Legislative Council, 23 February 2016 and Tabled Paper 3879, Legislative Council, 15 March 2016.

3.42 The Auditor General tabled an opinion in the Legislative Council on 11 August 2016 on the reasonableness and appropriateness of the decisions of the Ministers for Education, Health and Police not to provide information to the Parliament, including copies of their department's Strategic Asset Plans.⁶² The Auditor General made the following key findings:

- The decision by the Minister for Education, the then Minister for Health and the Minister for Police not to provide Parliament with a copy of their department's Strategic Asset Plan was not reasonable and therefore not appropriate.
- The information contained in the Strategic Asset Plan was not prepared solely for consideration by Cabinet and some of the information it contains is publicly available.
- The Minister did not consider if a redacted version of the Strategic Asset Plan could be provided.
- The Department's advice to the Minister was brief and did not contain analysis or explore options to provide parts of the information to Parliament.
- It should not be assumed that all information associated with the Strategic Asset Plan is confidential.⁶³

3.43 With respect to each department the Auditor General recommended it *'enhance its procedures for addressing parliamentary questions to ensure that analysis and any expert advice is documented, and key details and options are included in its recommendation to the Minister.'*

3.44 Each department, in their response, was of the view their decision not to release the Strategic Asset Plan was reasonable. Their response to the Auditor General's recommendation set out in paragraph 3.43 varied, as follows:

- The Department of Education stated:

The Department however recognises the need for Parliament to be informed about the state, demand and performance of the

⁶² Western Australian Auditor General's Report, *Opinions on Ministerial Notifications*, Report 18, August 2016 (see <https://audit.wa.gov.au/reports-and-publications/reports/>). Viewed 12 August 2016.

⁶³ Ibid. The Auditor General's opinion with respect to Western Australia Police focussed on the Minister's refusal to provide the dollar value of maintenance backlog for police facilities in 2014/15 by year on the basis that it is a component of the Strategic Asset Plan.

*Department's assets and is willing to work with Treasury to ensure relevant information is readily available to Parliament.*⁶⁴

- The Department of Health stated:

The Department followed the proper procedures and sought expert input from the relevant central agency and policy owner prior to providing advice to the Minister. In these circumstances, the Department considers that the Recommendation is unreasonable and should be removed.

*The Department will follow any changes made to policy by the Department of Treasury including guidelines on principles to assist the Department to determine what could be released (and not subject to Cabinet-in-Confidence) in future Strategic Asset Plans.*⁶⁵

- Western Australian Police stated:

WA Police agrees to review its procedures in relation to parliamentary questions and requests for supplementary information.

3.45 With respect to the response by the Department of Health, the Committee is not aware of any precedent for a department stating a recommendation of the Auditor General should be removed.

3.46 The Auditor General also made the following recommendations to the Department of Treasury and the Department of Premier and Cabinet:

We recommend that the Department of Treasury should:

1. By 30 November 2016, provide interim advice to agencies on options for releasing information from existing strategic asset plans (SAP) that would address the needs of Parliament while protecting Cabinet deliberations and decisions. This interim advice should include a set of principles to assist agencies in determining what could be released, including but not limited to SAP information that is:

- *publicly available including on government websites, such as state planning documents. For example, State Planning Strategy 2050 and Perth and Peel @3.5 million plan*

⁶⁴ Western Australian Auditor General's Report, *Opinions on Ministerial Notifications*, Report 18, August 2016, p10.

⁶⁵ Ibid, p13.

- *readily available to staff within the agency to use in performing their daily tasks*
 - *in published budget papers or annual financial statements including working papers and other documents used to prepare the budget and financial statements.*
2. *By 31 December 2017, review the model SAP it provides to agencies to clearly distinguish those parts of the plan that may contain Cabinet deliberations and decisions, and therefore are confidential.*

We recommend that the Department of the Premier and Cabinet should:

1. *By 30 November 2016, consider providing guidance to agencies on what information and documents would reveal Cabinet deliberations and decisions and therefore are confidential. This could involve updating the Cabinet Handbook.*

3.47 The Departments of Treasury and Premier and Cabinet, in their response, both remarked upon the “*time consuming process*” in “*identifying and separating confidential information from agencies SAPs*” that may add little value to material that is already available to the public.⁶⁶

3.48 Further, the Department of Premier and Cabinet also stated:

Legal precedent demonstrates that claims for public interest immunity on the grounds of cabinet consideration require an individual assessment of the data, information or documents in question and a blanket exemption or inclusion is not warranted.

3.49 The Committee notes that, despite this statement, the Auditor General’s remarks on the lack of analysis conducted by the departments in providing advice to their Minister may suggest this is precisely the position that has been taken in response to the request by the Committee for copies of their Strategic Asset Plans.

3.50 Despite this, both departments committed to providing guidance to agencies regarding the issue of the Cabinet-in-confidence status of Strategic Asset Plans.⁶⁷ The Committee looks forward to seeing this guidance and hopes it will lead to the release

⁶⁶ Western Australian Auditor General’s Report, *Opinions on Ministerial Notifications*, Report 18, August 2016, pp17-18.

⁶⁷ Ibid.

of more information contained in Strategic Asset Plans that address the needs of Parliament and its committees.

3.51 The Committee makes the following finding.

Finding 2: The Committee finds that information forecasting long term demands (at least 10 years) on agency resources with respect to management of existing assets and investment in new assets should be made publicly available.

3.52 A minority of the Committee comprising Hon Helen Morton MLC and Hon Peter Katsambanis MLC disagrees with Finding 2 on the basis it is not consistent with the Auditor General's findings in his Report 18, *Opinions on Ministerial Notifications*, which recognises that there are, occasionally, circumstances when aspects of that information should not be released.

3.53 The Committee makes the following recommendation.

Recommendation 1: The Committee recommends that the Government establish mechanisms for ensuring information forecasting long term demands (at least 10 years) on agency resources with respect to management of existing assets and investment in new assets, is available as part of its financial reporting processes.

3.54 The Committee also reiterates its position on what documents are entitled to be protected by Cabinet-in-confidence, as set out in its report 62⁶⁸ and makes the following recommendations:

Recommendation 2: The Committee recommends that the Minister for Education table in the Legislative Council information from the Department of Education's existing Strategic Asset Plan with Cabinet deliberations and decisions removed as soon as possible and in accordance with the recommendations contained in Auditor General's Report 18, *Opinions on Ministerial Notifications*.

3.55 A minority of the Committee comprising Hon Ken Travers MLC and Hon Alanna Clohesy MLC is of the view a copy of the Strategic Asset Plan as originally requested by the Committee should be tabled with any Cabinet deliberations and decisions removed. This is important to re-assert the right of Parliament to documents but maintain the convention of removing Cabinet deliberations and decisions.

⁶⁸ Western Australia, Legislative Council, Standing Committee on Estimates and Financial Operations, Report 62, *Budget Estimates Hearings 2015-16*, 19 May 2016, p 9.

Recommendation 3: The Committee recommends that the Minister representing the Minister for Health table in the Legislative Council information from the Department of Health's existing Strategic Asset Plan with Cabinet deliberations and decisions removed as soon as possible and in accordance with the recommendations contained in Auditor General's Report 18, *Opinions on Ministerial Notifications*.

- 3.56 A minority of the Committee comprising Hon Ken Travers MLC and Hon Alanna Clohesy MLC repeats what is stated in paragraph 3.55 with respect to Recommendation 3.

Recommendation 4: The Committee recommends that the Attorney General representing the Minister for Police table in the Legislative Council information from the Strategic Asset Plan of Western Australia Police with Cabinet deliberations and decisions removed as soon as possible and in accordance with the recommendations contained in Auditor General's Report 18, *Opinions on Ministerial Notifications*.

- 3.57 A minority of the Committee comprising Hon Ken Travers MLC and Hon Alanna Clohesy MLC repeats what is stated in paragraph 3.55 with respect to Recommendation 4.

Divestment of Fremantle Port

- 3.58 The Committee was unable to obtain certain financial information from the Fremantle Port Authority (Authority) on operations at Kwinana Bulk Terminal. Prior to the hearing with the Authority Hon Ken Travers MLC asked the following questions:

1) *What was the income for the Kwinana Bulk Terminal in 2014/15?*

2) *What was the expenditure for the Kwinana Bulk terminal in 2014/15?*

3) *What was the operating profit before tax for:*

a) Inner Harbour; and

b) Outer Harbour;

i) Kwinana Bulk Terminal;

ii) Kwinana Bulk Jetty; and

iii) Other (please specify)?

4) *What is the variance between the Actual figures and the original estimates included in the 2014/15 Budget Papers for each business unit listed in (3)?*

5) *What was the reason for any variance in (4) for each business unit?*

6) *How much did each of the business units listed in (3) contribute to;*

a) Income Tax expense; and

*b) Profit?*⁶⁹

3.59 The Minister responded as follows:

*Answer (1-6): Fremantle Port is part of the State Government's Asset Sales Program. Government is currently undertaking due diligence on the asset to prepare it for divestment by long term lease. The release of financial information at this time may prejudice the divestment.*⁷⁰

3.60 Subsequently, the Minister for Transport issued a Ministerial Direction to Dr Jim Limerick, the Chair of the Authority, which was tabled in the Parliament on 30 November 2015, in the following terms:

MINISTERIAL DIRECTION TO FREMANTLE PORT AUTHORITY – FREMANTLE PORT DIVESTMENT - STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

As you would be aware, the State Government has announced plans to consider the divestment of the Fremantle Port.

I understand that the Standing Committee on Estimates and Financial Operations (the Committee) has requested Fremantle Port Authority (FPA) staff to appear before the Committee at a hearing on 9 December 2015, to provide answers in relation to FPA's 2014-15 Annual Report.

The Government is currently undertaking due diligence to prepare for a potential divestment and I am of the view that the release of any financial or commercially sensitive information at this time may prejudice the divestment of the port.

⁶⁹ Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations, Fremantle Port Authority, Questions Prior to Hearing, 18 November 2015.

⁷⁰ Hon Dean Nalder MLA, Minister for Transport, Answers to Questions Taken on Notice, 19 January 2016.

I have previously written to the Committee, underlining the sensitivity of any release of financial information and its impact on the divestment program.

Therefore, pursuant to section 72 of the Port Authorities Act 1999, I direct the board and officers of FPA to not answer any questions that are directly related to the proposed divestment of the port and to not provide the Committee or hearing with any details that are likely to impact on any future decisions of the Government in any future divestment of Fremantle Port.⁷¹

- 3.61 In a hearing with the Authority, Hon Ken Travers referred to the Ministerial Direction and sought clarification of how the financial information requested in the questions before the hearing was prohibited by the Ministerial Direction.

***The CHAIR:** My first question therefore will be that, if that is the case, how does providing the income for the Kwinana Bulk Terminal in 2014–15 impact on the future divestment of the port, or decisions of government? Are you able to advise us of that?*

***Mr Leatt-Hayter:** I do not think I can advise on that, Mr Chairman, in the context of the direction that has been given to me.*

***The CHAIR:** So do you consider answering that question would be in breach of that direction?*

***Mr Leatt-Hayter:** I know that question was asked beforehand in terms of what the breakdown was, and the response was given to that question, so on the basis of that answer, I would have to suggest that probably, yes, those breakdowns might impact on future decisions of the government in relation to the divestment of the port and I would be prohibited in terms of that direction from answering that question.*

***The CHAIR:** You provided us the figures for 2013–14 with respect to the Kwinana Bulk Terminal Kwinana when it was at that stage the*

⁷¹ Hon Dean Nalder MLA, Minister for Transport, Letter, 30 November 2015. Section 72 of the *Port Authorities Act 1999* states:

72. Minister may give directions

- (1) *The Minister may give directions in writing to a port authority with respect to the performance of its functions, either generally or in relation to a particular matter, and, subject to section 73, the port authority is to give effect to any such direction.*
- (2) *The Minister must cause the text of any direction under subsection (1) to be laid before each House of Parliament or dealt with under section 133 —*
 - (a) *within 14 days after the direction is given; or*
 - (b) *if the direction is the subject of a notice under section 17 of the Statutory Corporations (Liability of Directors) Act 1996, within 14 days after it is confirmed under that section.*

only asset for sale, so I am still trying to understand how answering that—I realise it may not be a question that you can answer, but if you are able to shed any light for the committee as to how providing that answer, from the port authority’s perspective, would impact on the future divestment, it would be appreciated.

Mr Leatt-Hayter: *I cannot. I am reading the direction that was provided, Mr Chairman, and that is the interpretation that I put on it.*

The CHAIR: *What we might do is put that on notice for supplementary information for the minister or his representative to provide advice to the committee on how providing answers regarding the income and expenditure of the Kwinana Bulk Terminal in any way will impact on the future decisions of the government in any future divestment of the Fremantle Port.*

The CHAIR: *I will ask the same for each of the other questions that we put prior to the hearing regarding the operating profit before tax for the inner harbour, outer harbour, KBT, the outer harbour and then broken down into KBT, Kwinana bulk jetty and other, and then the variance between the actual and the original estimates, the reason for any of those variations, and their contribution towards income tax and profit, because I assume you will give us the same answer if I were to ask you regarding those how providing that information would in any way impact upon the divestment.*

Mr Leatt-Hayter: *I would, Mr Chairman.*

The CHAIR: *Thanks. So we will put all of those as supplementary information on notice for the minister to give us an explanation as to how that impacts, so having done that, do other members have questions? If not, I certainly have some.*⁷²

3.62 The Minister responded to the question on notice by stating as follows:

*The information is not publicly available and will be released to bidders as part of a planned sales process to ensure that all bidders have access to consistent data.*⁷³

⁷² Hon Ken Travers MLC, Chair, Standing Committee on Estimates and Financial Operations and Mr Christopher Leatt-Hayter, Chief Executive Officer, Fremantle Port Authority, *Transcript of Evidence*, 9 December 2015, p 1-2.

⁷³ Hon Dean Nalder MLA, Minister for Transport, Answers to Questions Taken on Notice, 19 January 2016.

3.63 The Committee has undertaken a search of the tabled papers register on the Parliament's website and observes that this refusal to provide information to Parliament was not subject of a notice tabled in Parliament pursuant to section 82 of the *Financial Management Act 2006*, which states:

82. Ministerial decisions not to give Parliament certain information about agency to be reported to Parliament etc.

(1) *If the Minister decides that it is reasonable and appropriate not to provide to Parliament certain information concerning any conduct or operation of an agency, then within 14 days after making the decision the Minister is to cause written notice of the decision —*

(a) to be laid before each House of Parliament or dealt with under section 83; and

(b) to be given to the Auditor General.

(2) *A notice under subsection (1)(a) is to include the Minister's reasons for making the decision that is the subject of the notice.*⁷⁴

3.64 Accordingly, the Committee reinforces recommendations in its Report 63⁷⁵ as follows:

Recommendation 5: The Committee recommends that Ministers ensure they comply with section 82 of the *Financial Management Act 2006* by causing written notice of a decision not to provide to Parliament information concerning any conduct or operation of an agency to be laid before each House of Parliament within 14 days after making that decision.

Recommendation 6: The Committee recommends that the Premier issue a Ministerial Office Memorandum reminding Ministers of the requirement to comply with section 82 of the *Financial Management Act 2006*.

3.65 The Committee also makes the following finding:

⁷⁴ Section 90(2) of the *Port Authorities Act 1999* provides that:

- (2) *The Minister and the board of a port authority must comply with sections 81 and 82 of the *Financial Management Act 2006* as if —*
- (a) the port authority were a statutory authority; and*
 - (b) the board were its accountable authority,*
- within the meaning of that Act.*

⁷⁵ Western Australia, Legislative Council, Standing Committee on Estimates and Financial Operations, Report 63, *Budget Estimates Hearings 2015-16*, 19 May 2016, pp 10-11.

Finding 3: The Committee finds that the direction issued by the Minister for Transport prevented the Committee from undertaking its work to scrutinise the financial administration of the State in particular with regard to Fremantle Port and its proposed sale.

Annual Report from the Executive Director, Public Health

3.66 During a hearing on 10 December 2015 with the Department of Health Hon Nick Goiran MLC asked whether the Executive Director, Public Health could provide to the Committee a copy of an annual report they would be providing to the Minister for Health on post 20 weeks abortions.⁷⁶

3.67 In answer to a question on notice the Minister stated:

The report is a confidential document provided to the Minister for Health. While it does not provide names, it contains sensitive clinical information. While the Minister is able to confirm that he has received the report and indicate his satisfaction or otherwise that abortions have been performed for good clinical reasons, its release would not be appropriate.⁷⁷

3.68 The Committee accepted the Minister's explanation on why the information needed to be kept confidential. However, the Committee is of the view the Minister should have tabled a notice pursuant to section 82 of the FMA and accordingly makes the following recommendation:

Recommendation 7: The Committee recommends that the Minister for Health table a notice in accordance with section 82 of the *Financial Management Act 2006* regarding his decision not to provide the Parliament with the information as detailed in paragraphs 3.66 and 3.67 of this report.



Hon Ken Travers MLC
Chair

25 August 2016

⁷⁶ Hon Nick Goiran MLC, *Transcript of Evidence*, 10 December 2015, p 9-10.

⁷⁷ Hon Dr Kim Hames MLA, Minister for Health, Letter, 11 January 2016.

APPENDIX 1
EXTRACT FROM HEARING WITH WESTERN AUSTRALIA
POLICE ON 7 DECEMBER 2015

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The CHAIR: We put some questions on notice prior to the hearing regarding your strategic asset plan, and your answer is that it is considered as part of the annual budget deliberation and is therefore confidential. Is it actually submitted to cabinet as a cabinet document? Is it submitted to cabinet as part of a cabinet submission, your strategic asset plan?

Mr Kannis: It is submitted to Treasury for submission into the budget process, which is considered by cabinet.

The CHAIR: Your budget outcomes are submitted as part of that process as well, are they not? On that basis, we would not be able to look at your annual report or your budget outcomes for last year.

Mr Kannis: It is then cabinet's decision about what it releases. So, cabinet makes the decision to release its budget; it has not made a decision to release the strategic asset plan.

The CHAIR: But the strategic asset plan is a working document of your own about what your capital needs are over the next 10 years, is it not, as part of the strategic asset management framework required by Treasury?

Mr Kannis: Yes, that is right. Every year that is reviewed with the budget process.

The CHAIR: So, if we cannot have the strategic asset plan, can you give us the identified strategic assets that you require over the next 10 years to meet demand?

Mr Kannis: That is still part of the same information, is my understanding.

The CHAIR: Just because you put in a document, does not make it cabinet-in-confidence. The information should still be available to a parliamentary committee about what you as an agency have identified as your asset needs over the next 10 years. Why can we not have that?

Mr Kannis: *I appreciate that, but I would need to refer the question to Cabinet Services.*

The CHAIR: *I am not asking what you provide to cabinet or Treasury, I am asking what you, internally as an agency, have identified as your strategic asset needs for the next 10 years and how you are going to manage your asset needs as part of a proper framework for managing them.*

Mr Kannis: *We did refer this, before we gave you the answer, to make sure, to see, if we could, and we were told we could not. Unfortunately, it has been regarded by DPC as a cabinet-in-confidence document.*

The CHAIR: *So, they have instructed you not to provide any information about what you have identified as your asset needs over the next 10 years?*

Mr Kannis: *I will not say they instructed us not to. We asked, "Can we release this information?", and we were told that it is cabinet-in-confidence.*

The CHAIR: *I understand that about the asset plan, but I am asking about the information.*

Mr Kannis: *But it is the same.*

The CHAIR: *No, because you would have other documents that inform you about your asset needs over the next 10 years.*

Mr Kannis: *Unfortunately, I am not in a position to release the information to you without that okay. I am happy to take it up with DPC for you and check the capacity to, but I do not have the authority to do so, unfortunately.*

The CHAIR: *Where within DPC was that instruction?*

Mr Kannis: *Ultimately, I think we checked it with the area that looks after Cabinet Services. I do not know particularly, but I am happy to ask the question of DPC.*

The CHAIR: *We have got Mr Conran coming later this week, so I can probably have a good chat to him about those matters!*

You also answered that the current list of outstanding maintenance at all police stations in WA, you could not provide because it provides sensitive technical information.

Mr Kannis: *Yes.*

The CHAIR: *In terms of an outstanding maintenance program, how does that contain sensitive technical information?*

Mr Kannis: *It raises issues about the quality of our buildings to an intricate detail, so it goes into detail about our facilities and where there are gaps and other things.*

The CHAIR: *In dollar terms, is there are a backlog of maintenance in police stations—if we do not get into the detail of the specifics?*

Mr Kannis: *That is again part of our strategic asset plan.*

The CHAIR: *It is also part of your asset investment program that has been released and I would have thought a fairly logical question for a parliamentary committee to be asking you. At the end of the financial year, did you have a backlog of maintenance?*

Mr Kannis: *We do have a backlog; there is a backlog of spend. I can give you that, but, again, I do not have the capacity to tell you what that is.*

The CHAIR: *Because?*

Mr Kannis: *It is part of a cabinet confidential—for the same reasons.*

The CHAIR: *Is it cabinet-in-confidence or —*

Mr Kannis: *There are two aspects to this. There are the technical, because it is identifying some operational flaws in some of our buildings that would not be best to get out. Also, the wider issue being that it is part of that strategic asset planning process. When you ask about the strategic asset plan, that talks about what your maintenance requirements are going forward, so it is in that and I guess it is cabinet-in-confidence. I will refer to the same process. I am happy again to take that up with DPC to see if they would be happy to release it.*