



**THIRTY-EIGHTH PARLIAMENT**

**REPORT 19**

**STANDING COMMITTEE ON ESTIMATES AND  
FINANCIAL OPERATIONS**

**FOLLOW-UP TO REPORT 12 BALGA WORKS  
PROGRAM**

Presented by Hon Giz Watson MLC (Chair)

May 2009

## **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

### **Staff as at the time of this inquiry:**

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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.



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## REPORT OF THE STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

### FOLLOW-UP TO REPORT 12 BALGA WORKS PROGRAM

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#### 1 INTRODUCTION

- 1.1 On 29 May 2008 the Standing Committee on Estimates and Financial Operations (**Committee**) tabled its *Report No. 12: Balga Works Program* (Tabled paper 4019) (**Report No. 12**). A copy of the report can be found on the Committee's web page.<sup>1</sup>
- 1.2 As required by Legislative Council Standing Order 337, the Minister for Education provided a Government Response to the Report No. 12, prepared by the Department of Education and Training (**Department**) in relation to a number of the recommendations<sup>2</sup> of the Report (**written response**).<sup>3</sup> A copy of the written response is attached at **Appendix 1**.
- 1.3 On 5 March and 30 March 2009 the Committee held public hearings with the Department in order to follow-up on the implementation of the Committee's recommendations by the Department. A copy of the transcripts of evidence taken at the hearings can be found on the Committee's web page.<sup>4</sup>
- 1.4 The Committee also held a public hearing with the Director of Public Prosecutions (**DPP**) on 5 March 2009, to gain an understanding as to why the corruption charges against Mr Mervyn Hammond, former Principal of Balga Senior High School were dropped. The Committee also wished to ascertain whether the Committee's inquiry into the Balga Works Program had impacted on the DPP's prosecution of Mr Hammond. A copy of the transcript of evidence taken at the hearing can be found on the Committee's web page.<sup>5</sup>

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<sup>1</sup> <http://www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Committees+-+Current> (current at 2 April 2009).

<sup>2</sup> Recommendations 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of the Report.

<sup>3</sup> Letter from Dr Elizabeth Constable MLA, Minister for Education to Mr Paul Grant, Clerk Assistant (Committees) Legislative Council, 14 November 2008 attaching Department of Education and Training Response to Report No 12: Standing Committee on Estimates and Financial Operations Balga Works Program.

<sup>4</sup> <http://www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Committees+-+Current> (current at 2 April 2009).

<sup>5</sup> Ibid.

## 2 THE DEPARTMENT OF EDUCATION AND TRAINING'S RESPONSE

### Apology and offer to meet individuals affected

- 2.1 During the hearing, the Director General of the Department proffered an apology for the inadequate management on the part of the Department in relation to the Balga Works Program. Such an apology was not contained in the Department's written response.

*Ms O'Neill: First, if I could begin by saying that the incidents surrounding Balga Works and the program at the time and the difficulties around that are obviously most unfortunate and regrettable. As the Director General of the Department of Education and Training now, I would probably not even want to use the word "regrettable", because that does, I think, signify distance, which, as director general, I had hoped would not be the case in our response and would not want to continue to be the case if in fact that is how it is perceived. In fact, I would want to apologise to the committee, to parents and students and to our employees and others who have been involved around the Balga Works program, for any ill management on the part of the department in relation to that program, notwithstanding that clearly others have been involved. I am talking about the department's responsibilities. I do not think we have made such an apology. I would like to make an apology to the committee on behalf of the Western Australian public and all those involved for our part in what I describe as a bit of a mess. I would like to take this opportunity to provide, first of all, that apology. We could have done better. I think our report in part tries to make that point. If we made that in a bureaucratic way or not in a very clear way, then that is certainly regrettable. As director general I made that apology for our lack of performance in the Balga Works program.*

*Secondly to that, if I could, Chair, I make the comment that—perhaps I have touched on it a little—our response specifically and our action, on reflection I think in reading the report, again in our response, can be, has been, is portrayed I think as unsympathetic and not showing great empathy. That is not the intention of the department, but I take on board and I acknowledge that is certainly the way it has been portrayed. I think there is learning in that for our department about how we operate and how we communicate. As a department we have certainly taken that on board.*

*It has come across I think as bureaucratic and as not understanding the ramifications for individuals, so again I make the point that, as a*



*department, I think the committee's deliberations have certainly contributed to some positive action about not only the technicalities of the program but also the way we are operating. When I became director general it was very clear that I wanted to simplify processes for our own people and for the public so that education and training are more accessible. I do not think we have done the best job in communicating that in this regard. I acknowledge the work of the committee and our subsequent work in trying to address what I think have been some inadequacies in the way we have not only managed it but also subsequently communicated and dealt with the people involved. That obviously does not go to the detail for the committee. However, from our perspective I wanted to open proceedings by saying that, as director general, I am very clear that if we have demonstrated unwillingness, that should not have occurred and will not continue to be the case. I take this opportunity to put that to the committee.*<sup>6</sup>

- 2.2 During the hearing the Department undertook to contact the former employees and to offer to meet with them and hear their views. This undertaking was not put forward in their written response and was a direct result of the Committee having a further hearing with the Department:

**Hon KEN TRAVERS:** *I also think this was about getting out there and asking you to identify these people. In terms of the identification of people, can I suggest that you could start by talking to the Minister for Training. He could probably give you a list of people who could provide you with a list of other people who were involved in and affected by the program. Even if we do not compensate them for their lost wages, and I accept that point, I still think there is an obligation on the department to seek to mitigate the adverse impacts that this has had on people's lives. Money often does not solve things, but it is about being caring and understanding and hearing their concerns and sitting down and talking to those people to understand what it meant to them and what impact it had on them. That is what I am asking the department to do and I think that is what this recommendation was doing. Talk to the minister. Say, "Give us the list of people we can call in. Let's have that meeting with people. Let's ask them what we can do." Often it will not be about money but about listening. The apology that you gave today, give that to them directly.*

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<sup>6</sup> Ms Sharyn O'Neill, Director General, Department of Education and Training, *Transcript of Evidence*, 5 March 2009, pp1-2.

*Ms O'Neill: Can we bite off one bit of this at a time? If we have the names and contacts—through however means we get those—we will make an undertaking to offer to those people our counselling services. That would be a good start, I think. Quite rightly, I also see them as two different mechanisms. That is about the offer of counselling. In meeting with individuals, we are able to listen, which I think is probably also a good start. With respect to anything more formal around compensation or whatever word you want to use, that takes us, as you said, into a different field. We would be able to listen and because of the responsibilities we have under the Treasurer's instructions, we could gather information from individuals and they could present us with information. Then, as we said in the report, we could assess and make recommendations around the impact that that has actually had on people. I do not think I can be more proactive about that formal sense because we will end up making an assessment also. However, we can give people that information and communicate the expectation, or point them in the right direction, for example—I do not know the technicalities, and do not pretend to—about what kind of information is required and the extent of the information that would be required. They are two different things. If we are talking about financial compensation, there is a process for that, which I need to comply with and assess.*

*The undertaking is that for whatever names we can get, and by whatever means, we will offer our counselling services, and we undertake to the committee to be more proactive in that. With respect to compensation, we state in the report that if anyone is able to demonstrate the impact—I am clarifying today that that does not have to be lawyered-up, I guess—we will certainly consider those applications sympathetically and reasonably.<sup>7</sup>*

*Committee comment*

- 2.3 The Committee acknowledges and welcomes the apology provided by the Department and the undertaking of the Department to contact the individuals adversely affected by the Program. The Committee is of the view that the individuals affected by the Balga Works Program deserve the opportunity to express their grievances to the Department in person and to receive assistance in addressing their issues and claims. It is a much needed step to address the impact of the failure of the Balga Works Program on the former staff and students of the Program.

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<sup>7</sup> Ibid, p13.

- 2.4 The Committee's Report No. 12 identified a number of shortcomings in the operations of the Department in its handling of the Balga Works Program. The Committee notes that the Department has acknowledged a number of inadequacies in its handling of the Balga Works Program.
- 2.5 The Committee perceived, through the Department's written response to Report No. 12, the Department as being unsympathetic and defensive and their actions reactive. By engaging in further dialogue with the Department, the Committee has been able to inform the Department of its expectations. This has resulted in a more favourable response being provided by the Department.

### **Report Recommendations**

- 2.6 During the hearings the Committee discussed with the Department their written response to each of the recommendations of Report No. 12 that were applicable to the Department. Through this process the Committee was able to ascertain the progress of the Department in implementing the Committee's recommendations and also to clarify with the Department the Committee's intention and expectations. The Committee refers readers to the transcripts of the hearings for full detail.
- 2.7 Of major importance to the Committee was assurance from the Department that they have taken actions to ensure that the response of the Department to breaches of procedures by school principals would be improved and that the experience of the Balga Works Program does not occur again. In this regard, the Director General advised:

***Hon KEN TRAVERS:*** *And how would you intervene differently?*

***Ms O'Neill:*** *So, there are a couple of things that we have mentioned and there are some other things as well. Certainly, the strategic procurement unit, with respect to any contractual arrangements, now would have much more—would have an alert system for the executive about contractual arrangements that are not going well or, indeed, should not perhaps proceed. It is something that we did not have before; it is now located in the department. Certainly, we have talked to the directors of schools about their role in standards reviews or reviews of schools and the kind of attention that they need to be giving to those programs that are out of the ordinary, which, in fact, this one was. There are quite a number of schools that have arrangements with private providers, particularly around innovation for students at risk. That being said, we have certainly tried to build it into standards reviews and approaches through performance management of directors of schools because that is the direct line relationship. We also have introduced an expert review team, which I think I talked*

*about last time, that gives an in-depth analysis of schools' operations and reports directly to the director general, so that is something else we have put in place. We have a critical reporting incident arrangement with schools, although in this case they would not have reported themselves as being in a critical crisis, I do not think. We have relocated or strengthened our finance officers in districts; we have taken them out of district responsibility and we have said you specifically need to be in schools and reporting back, not to the district, but to the central office through Peter McCaffrey's area—the financial arrangements and performance of schools.*

*So, I certainly am comforted that we have many more alert systems in place than we had at the time of the Balga Works situation. I think, though, it is true to say that in an organisation this size you can have all those things in place and people not being alerted individually. So, I think personal accountability is the area that I would like to speak more generally about with staff, with principals, with directors—Mr Garnaut, for example—about being alerted and alerting the central office to issues as they arise, not to try to deal with them on the ground, and by the time we are alerted in the central office things are already running awry. That is personal accountability, in my view. So, I am not sure whether you are going to be any more comforted about those things, but there is some personal responsibility that needs to be taken, I think, in these matters. The central office of the department is only one part of it, but the central office can only intervene when a problem is evident to it. I think in this case we had various parts of the department being alerted and it not being, probably, sufficiently alarmed to bring it to the full attention.*

*How would we intervene in the future? I would expect, first of all, to have been appraised, had I been the director general of the time, of such alerts. We would be much more directive, I think, in our intervention. As I understand it—if you need to add detail, you can, certainly—at the time we tried to intervene and support, such that students, programs et cetera were not affected. What would we do today? We would take a much more directive role, I think, in that intervention such that we would call, probably, for an immediate review from procurement and every other perspective, and certainly would be asking questions about people's performance in this regard.<sup>8</sup>*

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<sup>8</sup> Ms Sharyn O'Neill, Director General, Department of Education and Training, *Transcript of Evidence*, 30 March 2009, p6.

*Committee comment*

- 2.8 The Committee has gained some assurance that the Department is taking action to reduce the risk of the Balga Works Program experience being repeated.

*Recommendation 4*

- 2.9 Recommendation 4 of Report No. 12 states:

*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.*

- 2.10 The Committee notes the written response provided by the Department to this recommendation. However, the recommendation requested a response be provided by the Minister for Education and Training. On 31 March 2009 the Committee wrote to the Minister for Education seeking a response to Recommendation 4 of Report No. 12. The response provided by the Minister for Education is attached at **Appendix 2**.

*Committee comment*

- 2.11 The Committee notes that the Minister for Education has not stated whether she is satisfied that the Department has met its duty of care obligations towards those persons adversely affected by the Balga Works Program. The Minister for Education responded in the following way:

*I note that the Report demonstrates that the facts and details of the Program, along with the relationships between parties involved with the Program, were complex and unclear. In the circumstances, it is not reasonable for me to comment on possible breaches of a duty of care to unspecified individuals. Such questions are best addressed on a case-by-case basis.<sup>9</sup>*

### **3 THE DIRECTOR OF PUBLIC PROSECUTIONS**

#### **DPP decision not to prosecute Mr Hammond**

- 3.1 The Committee has ascertained that the case against Mr Hammond was dropped primarily due to the inability of the DPP to establish beyond reasonable doubt that Mr Hammond had breached procedure for a criminal objective. Further, it was unlikely that a conviction would result in imprisonment.

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<sup>9</sup> Letter from Dr Elizabeth Constable MLA, Minister for Education, 28 April 2009.

3.2 Evidence provided to the DPP by Mr Garnaut, Mr Hammond's line manager weakened the DPP case. As explained by Mr Cock, DPP:

*A critical witness to speak with was John Garnaut who, as I understand it, was the accused's line manager. The senior prosecutor who was going to prosecute the case spoke with him, as I understand, on 28 January—he had just returned from an overseas holiday and that is why he was not able to be spoken to earlier. His advice to the prosecutor was that the accused, Mr Hammond, was passionate about the Balga Works program and the children at that school because it was seen as a very important government school that catered for children, as the committee is well aware, for whom there were little other facilities or assistance available. What Mr Garnaut said to my prosecutor was: "There was every reason to consider that the commonwealth and other agencies were prepared in due course to fund the program". From his recollection they were giving out positive vibes and sent representatives to the school that enforced that implication. He confirmed that other non-commonwealth agencies cannot provide funds directly to the school and they have to go through a body such as a parents and citizens association. Mr Garnaut's advice to the prosecutor was that he saw no difficulty in private providers billing the parents and citizens association for the services that were incurred on behalf of the school and the P&C paying for the services from the funds it was given. He felt that the P&C was an independent body and simply needed to be satisfied that the bills that it was paying were paid for from the funds that were granted for that purpose.*

*Worse still from our perspective, Mr Garnaut said that whilst he did not condone the way in which the accused went about implementing the program, he did not consider it criminal conduct and felt that it was merely a matter of management style. That was the view of Mr Garnaut's, who was perceived rightly in my assessment to be a critical witness if the case had proceeded. It would have left in the minds of the jury, in our assessment, the real doubt as to whether the mere fact of failure to comply with process of itself was enough to enable the jury to convict of the offence. There were some cases where, as I understand it, it was expected that Mr Hammond would put forward an assertion that he was expecting funds in due course to be able to backfill the source of the funds that he dispersed to the parents and citizens association. As I said, Mr Garnaut's evidence seems to suggest or confirm the validity of that likely assertion by Mr Hammond.*

*The other real concern that was present throughout the case, and I know the prosecutors were more anxious about it when they were preparing the case in January, was the likely outcome in the event of a conviction. The assessment by them and by Mr Fiannaca, who reviewed it at their request in January, was that there was no real likelihood of a conviction resulting in imprisonment. The more likely outcome was a non-custodial disposition, either by way of some community order or perhaps a fine, but there was no likelihood of a conviction resulting in imprisonment. That is a real issue for my office because the court had to assign three weeks for the trial and as a couple of the witnesses resided interstate and overseas there would be a significant cost over and above the normal cost of running a trial. The trial was likely to go for three weeks and the prospects of achieving a conviction, although present, were not as great as they had been assessed when Mr Van Dongen, the initial file manager, reviewed the case two years earlier. All those factors were presented to Mr Fiannaca on or about 29 January this year and he took the view—if you do not mind I will read from the file note that he made for my benefit. It reads —*

*The real difficulty I see with the prospects of conviction is the fact that the proofing of witnesses has disclosed that the making of the payments was known to the accused's line manager and others involved in the administration of the school. The argument that he —*

*Mr Hammond —*

*was trying to avoid accountability is weakened by this evidence.*

*There is no doubt that he was circumventing the bureaucracy in the wider sense, but it seemed from the evidence obtained from these witnesses that he, in fact, was not avoiding this scrutiny. Mr Fiannaca, and again I agree with his assessment, felt that the inference of corruption is weakened when the line manager directly indicated that he was aware of the mechanisms that were being applied and was aware of the inappropriateness of it, but did not do anything to stop it. Coming back to Mr Fiannaca's note, he felt —*

*This is not a case where a jury is likely to consider that the accused acted from a corrupt motive, in terms of his ultimate goal.*<sup>10</sup>

- 3.3 The Committee notes that it was the evidence of Mr Garnaut that he was aware of the mechanisms being applied by Mr Hammond and Mr Garnaut's failure to do anything to stop this inappropriate behaviour, together with the lack of evidence of any corrupt payments received by Mr Hammond which diminished the strength of the case such as to raise questions of the public interest in continuing. When these matters were evaluated, along with the length of the trial, the cost involving witnesses from interstate and overseas, and the lack of likelihood of a sentencing of imprisonment, it was decided that the prosecution be terminated.<sup>11</sup>

#### **Work of the DPP assisted by the Committee**

- 3.4 The Committee was concerned that its inquiry into the Balga Works Program may have impacted on the prosecution by the Office of the Director of Public Prosecutions of Mr Mervyn Hammond, former Principal of Balga Senior High School. Mr Robert Cock QC, Director of Public Prosecutions advised the Committee that this was not the case, and in fact the investigation was assisted by the work of the Committee.

*The CHAIRPERSON: I also want to ask: has any part of the committee's work or committee investigation and report in any way impacted on your decision or the decision of the department to not pursue the case against Mr Hammond?*

*Mr Cock: No. In fact the opposite is the case, Madam Chair. The file notes suggest that the prosecutors were assisted by the clear questioning of Mr Hammond to understand what he was putting forward and, hopefully, to lock him into a particular position. So far as I have read the file, it seems that—there are frequent references to the evidence before the committee—it was really of value to the office; although it was not critical to the decision to drop it, it was actually going to be quite helpful if the trial had gone ahead.*<sup>12</sup>

#### **Avoidance of penalty by public servants through resignation**

- 3.5 The Committee notes that Mr Hammond's actions in relation to the Balga Works Program were in clear breach of Department processes and guidelines. However, by his resignation as Principal of Balga Senior High School, he has avoided disciplinary action for his misconduct.

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<sup>10</sup> Mr Robert Cock QC, Director of Public Prosecutions, *Transcript of Evidence*, 5 March 2009, pp2-3.

<sup>11</sup> Ibid, pp3-4.



*Mr Cock: There are clear breaches of guidelines in the Supply Commission procedures. At the moment, breaches of those are not criminal conduct. That is an option that could be explored to elevate non-compliance with particular guidelines that are seen as very important. Requirements to go out to tender, requirements to get approval for certain expenditures above a particular threshold, seem to me to be quite important, because the potential is for large amounts of money to be spent either badly or worse. At the moment the only way to pursue that in a criminal court is to suggest that there is some corrupt conduct behind it. That then brings it before a jury who would naturally have some sympathy for a man who may passionately believe that what he was doing was for some decent purpose. The way to criminalise his conduct is in fact to do that directly—to say that a person who does not comply with a particular guideline commits a criminal offence. So you have a regulatory regime that does more than just say it is misconduct under the Public Sector Management Act. You say it is also a criminal offence to do it.*

*Hon KEN TRAVERS: As I understand the Public Sector Management Act, the question is: does he resign?*

*Mr Cock: Precisely. We hear this all the time. Police officers [sic] and public servants who are subject to this sort of disciplinary procedure can resign, receive all their entitlements and also avoid the scrutiny of a disciplinary process completely, because they are no longer an officer. It is as short as that. We read weekly in the newspaper of that happening.<sup>13</sup>*

- 3.6 The Committee recommends that the Attorney General investigate this apparent anomaly of public servants resigning and, thereby, avoiding any further penalty for alleged misconduct.

**Recommendation 1: The Committee recommends that the Attorney General investigate the apparent anomaly of public servants resigning and, thereby, avoiding any further penalty for alleged misconduct.**

<sup>12</sup> Ibid, p7.

<sup>13</sup> Ibid, p6.

*G. Watson*

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**Hon Giz Watson MLC**  
**Chair**

**Date: 7 May 2009**

**APPENDIX 1**  
**WRITTEN RESPONSE FROM THE DEPARTMENT**



# APPENDIX 1

## WRITTEN RESPONSE FROM THE DEPARTMENT

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**Minister for Education; Tourism; Women's Interests**

D08/0203736



Mr Paul Grant  
Clerk Assistant (Committees)  
Legislative Council  
Parliament House  
PERTH WA 6000

Dear Mr Grant

**RESPONSE: COMMITTEE REPORTS: GOVERNMENT RESPONSE**  
**Legislative Council Standing Order 337**

I refer to your letter dated 3 June 2008 to the Hon Mark McGowan MLA, former Minister for Education and Training regarding the Report of the Standing Committee on Estimates and Financial Operations Committee ('Committee') – *Report No. 12: Balga Works Program* ('Report') tabled on 29 May 2008.

I am pleased to provide the attached response prepared by the Department of Education and Training in relation to recommendations 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of the Report.

If I can be of assistance after the Committee has considered the Department's response, please let me know.

Yours sincerely

14 NOV 2008  
Dr Elizabeth Constable MLA  
**MINISTER FOR EDUCATION; TOURISM;  
WOMEN'S INTERESTS**

Att.

Level 19, Governor Stirling Tower, 197 St Georges Terrace, Perth Western Australia 6000  
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Response to Report 12: Standing Committee on Estimates and Financial Operations: Balga Works Program

**DEPARTMENT OF EDUCATION AND TRAINING**

**RESPONSE TO REPORT No. 12: STANDING COMMITTEE ON ESTIMATES AND  
FINANCIAL OPERATIONS**

**BALGA WORKS PROGRAM**

**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 purposes 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.

1. The Department of Education and Training ('Department') has reviewed the information provided to the Committee about the funding provided by the Aboriginal Education and Training Directorate in and around September and October 2004 and has commenced a formal investigation into the matter.

**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.

2. Mr Paul Albert, the then Director General, was on leave from 21 June 2004 and returned to work on 9 August 2004. A copy of the direction to act as Director General, dated 15 June 2004, is attached as Attachment A.
3. The Department has no record to indicate that the Director General was made aware of the Program, the Ministerial Briefing Note on MITS, or more particularly, that a meeting had occurred with the Minister about the Program or its outcome, prior to the briefing note referred to at paragraphs 2.32 and 2.34 of the Report.
4. There were no FTE conversions for the Program in 2004. As explained at paragraph 18 and 19 of the Department's initial submission to the Committee (dated August 2007); the Principal was told;
  - (a) he was not following proper protocols; and
  - (b) the Program was to be considered through an alternative approach, the Swan Works Program.
5. The Principal participated in development of the Swan Works Program, which had not been approved to proceed by the beginning of 2005. It was at this time that the Principal advised, as stated in paragraph 24 of the Department's initial submission, that the School was proceeding to enrol students in the Program and that the Program would be run through existing School resources as a School based program.

Response to Report 12: Standing Committee on Estimates and Financial Operations: Balga Works Program

6. The Department notes the Committee's comments at paragraphs 2.26 to 2.28 of the Report and the information considered in reaching those comments. The Department will consider the information provided to the Director General up to and including 22 October 2004, as part of the formal investigation referred to in the response to Recommendation 2.

**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.

7. The Department acknowledges it had a duty of care to:
- (a) the students of the Program;
  - (b) staff employed by the Department; and
  - (c) in limited circumstances, third parties such as contractors, sub-contractors and their staff, to take reasonable steps to eliminate or minimise foreseeable risks of harm.
8. The Department notes Finding 2 of the Report and acknowledges that the Department could have:
- (a) scrutinised preliminary representations and arrangements about the funding of the Program by the Principal and others more carefully;
  - (b) responded to the inadequacies of the Program more quickly and effectively once they become apparent to the Department, however as previously submitted:
    - (i) the Department endeavoured to persist with the Program for the benefit of the students when in hindsight, given the real state of affairs of the Program, it may have been more appropriate to simply cease the Program; and
    - (ii) the Principal and others continued to misrepresent various matters about the Program during and after October 2005;
  - (c) challenged the Principal earlier in the life of the Program about particular representations and arrangements he made for the Program, however this was difficult in the circumstances given his role in the School and the Program, the goals and nature of the Program, his intentional misrepresentations about various Program matters to his manager and others, and the conduct of Michael Carton and members of the P&C.
9. A number of students were beyond compulsory school age and were offered a Program, not in place of another program or course, but as a means of assistance and alternative to joblessness. The students who attended the Program did receive teaching, assistance and support from the School and Department for the periods during which they were in attendance. Whether any particular student was in fact adversely affected by the Program, and whether an adverse effect was attributable to a breach of a duty of care will depend upon the circumstances of that student.



Response to Report 12: Standing Committee on Estimates and Financial Operations: Balga Works Program

10. The Program did impact directly and indirectly upon staff of the School. The nature of the Program and its students resulted in behaviour at the School that was confronting and difficult to deal with. The Department has offered counselling sessions to any staff member who believes that he or she was adversely affected as a result of the Program. School staff can also claim workers' compensation for any injury they sustained in their course of their employment falling within the definition of "injury" in the *Workers' Compensation and Injury Management Act 1981*.
11. Any duty of care claimed is dependant upon, amongst other things, the particular circumstances in which a person has been adversely affected by the manner of administration of the Balga Works Program (including the nature of the Department's conduct, the character of any loss or damage suffered as a consequence of that conduct, the statutory context of particular decisions, and the application of the *Civil Liabilities Act 2002*).
12. If any people or entities believe that: the School or Department owed them a duty of care; that the School or Department breached that duty of care; and that such breach caused compensable injury or loss, then it is open to that person or entity to claim, at common law, compensation from the Department in the ordinary way. The Department will pay compensation where it is liable to do so.

**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 service provider has processes in place to ensure that the staff hired by the private provider are appropriately qualified.

13. The Department acknowledges that it failed to formalise and document its contractual relationship with Hurson, after the Department became aware in November 2005 that a private provider was being paid to deliver the Program. The Department agrees with the Committee that there were inadequate checks and due diligence of Carton, Hurson and the Program.
14. The School developed a written contract with Hurson without sufficient support, resources, and expertise to do so. At the time there was a failure to appreciate, what subsequently became apparent, the complexity of the Program and the flaws in its delivery. The preoccupation with developing a tender document, rather than focusing on the very complex contractual arrangements already in existence, was a contributing factor.
15. It is in this context that the Departmental staff failed to appreciate a number of matters that should have been more carefully considered, including the necessary due diligence. It should be noted that as part of the normal procurement process undertaken in accordance with Departmental and State Supply Commission policy, due diligence is undertaken through the assessment of an applicant's response to the tender document. There are clear and existing policies to this effect.
16. As stated in the Department's initial submission to the Committee, generally and specifically at paragraphs 4, 25, 26, and 28, the Principal was told not to enter into contractual arrangements and was referred to the Contracting Manager and procurement requirements. He met with the Contracting Manager and was specifically advised on the relevant procurement arrangements on the same day he signed the MOU with MITS.



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17. The Department has been assessing means by which it can improve its contracting performance. In 2007 the Department established a site on its intranet for Client Procurement Services which explains purchasing policies and procedures and offers greater support to school based staff. In early 2008 the Department also established a Strategic Procurement Directorate that will have overall governance of procurement. This Directorate is developing systems and strategies to improve:
- (a) management and understanding of procurement policies and procedures in the Department;
  - (b) procurement risk management strategies;
  - (c) contract management strategies including customised contract management training for Departmental officers; and
  - (d) communication of procurement information.

**Recommendation 7**

The Committee by a majority (comprising Hons Giz Wilson, Peter Collier, Sheila Mills and Helen Morton MLCs) recommends that the Western Australian Council of State Schools 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.

18. The Department wrote to the Western Australian Council of State School Organisations Inc. ('WACSSO'), seeking advice about:
- (a) whether an employee of a school (Department) should be a signatory on a school P&C account;
  - (b) whether an employee of a school should be an office bearer of the P&C; and
  - (c) whether a school should be donating money to the P&C.
19. WACSSO replied to the Department advising that:
- (a) WACSSO is the representative body for P&C associations and not a governing body. It has no effective control over the actions of individual associations;
  - (b) the primary means of regulating the conduct of P&Cs is through the standard constitution as approved by the Minister which states that membership is open to any individual over the age of 18 having an interest in the work of the association, and that office bearers are automatically signatories to the account;
  - (c) preventing employees of the school from holding office would be a direct conflict with the constitution and negates the intent of section 142 of the *School Education Act 1999* that encourages anybody interested in the welfare of government schools to become members of the P&C association;
  - (d) while the P&C may accept donations, it is the responsibility of the principal, as the site manager, to ensure that donations and payments made by the school to any organisation comply with the Department's policies and procedures.
    - (i) it should be noted that section 3.5 – Management of School Funds – at section 3.5.2 of the 2004 and 2005 Financial Management in Schools Policy and Procedures Manual states that:  
"Schools must not donate money to other schools, parents and citizens associations, organisations, clubs or individuals, except where money is raised from a fundraising event held for the purpose of donating that money to the P&C or other organisations".

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20. The Department subsequently met with WACSSO which has reinforced that in its view section 142 of the *School Education Act 1999* and the standard constitution provides for open membership of a P&C. The Balga P&C, like all P&Cs, adopted the standard constitution.
21. The standard constitution provides that:
- (a) at 5.1, membership is open to anybody;
  - (b) at 5.2, the Principal shall be an ex officio member and may be elected to any of the offices;
  - (c) at 7.5 officers of the Executive Committee are elected at the Annual General Meeting by and from members and ex-officio members;
  - (d) at 12.4, the Honorary Treasurer is to make payments as authorised by a General or Executive Committee meeting by means of cheques; and
  - (e) at 12.5, the Honorary Treasurer is to ensure that all cheques must be signed by any two of the following – President, Vice President, Secretary, Treasurer and one member of the Executive Committee who is appointed for such purposes at the Annual General Meeting.
22. The Department agrees that the Balga SHS P&C did not operate with sufficient autonomy from the School and was compromised by conflicts of interest. Nevertheless, the existing standard constitution provides for open membership of the P&C and for the Principal and members of staff to be members of the Executive Committee.
23. The Department has considered the role of the P&C in the Program, the existing standard constitution and met with WACSSO and the Department of Consumer and Employment Protection ('DOCEP') in this regard. The Department has commenced a process, with the assistance of WACSSO and DOCEP, to review the standard constitution. The Review will:
- (a) examine whether staff at other schools are signatories to the P&C accounts and the implications of school staff being prohibited from being signatories;
  - (b) consider whether other approaches to controlling staff participation on a P&C are necessary, such as specific authorisation for this to occur;
  - (c) assess the effectiveness and utility of the standard constitution in the light of the Balga Works Program and the operations of P&Cs generally;
  - (d) consider and contrast the relevant provisions of the *School Education Act 1999* for P&Cs with those of the *Associations Incorporations Act 1987* and seek legal advice about any conflict or implications arising from those provisions; and
  - (e) deal with matters arising from the constitution and the operations of the P&Cs.

**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.

24. A copy of the Audit Final Report on Balga Senior High School P&C finalised in July 2007, was provided to the current Principal of the School, the current President of the P&C, WACSSO, DOCEP and the Police in December 2007.

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25. Since the beginning of 2007, those members of the P&C that were involved with the management of the Program have ceased to be members of the P&C. After the release of the Report, the Department communicated with and met the Police Officer who had investigated the Program (including the P&C involvement in the Program), DOCEP, WACSSO and the current Principal of Balga High School, to determine what further investigations could be undertaken into the P&C.
26. The Police Officer advised that he had investigated the P&C and its members as part of the process that led to charges against the Principal. In his view unless additional evidence has become available, further investigation of the P&C would be unproductive.
27. WACSSO and DOCEP representatives advised that they have had contact with current members of the P&C to make them aware of, and able to operate the P&C in accordance with, required processes and standards. DOCEP has advised that:
  - (a) a prosecution for a breach of the *Associations Incorporations Act 1987* should have been commenced within 12 months of the breach occurring. The period to commence a prosecution appears to have expired as any breach would have occurred between September 2004 and October 2006, or shortly thereafter; and
  - (a) it has concerns about the eligibility of the P&C to remain incorporated and after further assessment, it will provide the Commissioner for Consumer Protection with information in relation to the potential cancellation of the P&C.
28. Given the previous investigations of the P&C, the change of membership, the ongoing involvement of DOCEP and WACSSO, and the review of the standard constitution that would consider the role of the P&C, the Department's position is that further investigation of the role and activities of the P&C in regards to the Program, is not worthwhile in the circumstances.

**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.

29. The Department has or is establishing the following suite of programs in response to the raising of the school leaving age and, within that framework, to provide education and vocational training for disengaged youth.
  - Education and Training Participation Plans across each education district;
  - Senior School Engagement Programs in schools;
  - Community Based Courses provided by non-government organisations;
  - Support and Transition Network ('SATN'); and
  - Learning and Transition Network ('LATN').
30. In developing the final two initiatives, SATN and LATN, the Department's focus is on assisting severely at risk young people, similar to those that participated in the Balga Works Program. The aim of the networks will be to;
  - (a) provide individual support to engage in mainstream education and training whilst incorporating social and life skills (SATN); and
  - (b) education and training delivery by community organisations (LATN).



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31. A pilot SATN service was conducted between 2006 and 2008 in the Midland area. It was a collaboration between the Department and the Hills Community Support Group HCSG (Inc). The program provides intensive individualised support to the young person at risk. A formal evaluation by an independent agency reported very successful participation and attainment rates among young people in the piloting of this program.
32. The Department working through a cross sectoral governance group, is considering extending the SATN service into four other locations where there are significant numbers of severely at risk young people. These locations are:
- Swan Education District (pilot) Midland
  - Canning Education District (new) Armadale and North Armadale
  - Fremantle/Peel Education District (new) East Mandurah
  - Swan & West Coast Education Districts Balga, Girrawheen, Clarkson
  - Mid West Education District (new) Geraldton
33. Work is also progressing on funding models for education and training programs delivered by community organisations (LATN). Pilot programmes are being considered for three locations;
- Swan Education District Midland
  - Fremantle/Peel Education District Kwinana
  - Mid West Education District Geraldton
34. Service level agreements necessary for such programs are being examined for community organisations, non-government organisations and not-for profit organisation that identify expected service obligations, quality standards, level of funding, performance management and a annual review processes.

**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 practices of the Department of Education and Training.

35. The Department has reviewed, and is continuing to review, the financial management support provided to schools. The Department has created a new financial directorate called Financial Services and Support specifically to better support and co-ordinate the financial management of schools.
36. In order for the new directorate to perform its role, existing structures, roles and reporting relationships of staff responsible for financial management was reviewed. As a result, the new directorate now includes finance and administration officers located in district offices ('District Finance Officers'). The new directorate is better supporting school financial management by;
- (a) analysing the financial management systems and performance of individual schools;
  - (b) establishing benchmarks and ratios for good financial management based on the size and characteristics of schools;
  - (c) developing financial management risk profiles for schools and identifying schools at risk;
  - (d) better integrating its operations with internal audit generally and through the use of common financial ratio and risk indicators; and

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- (e) supporting and providing professional development for business managers, registrars, principals and deputy principals in financial management.
- 37. The new directorate has been providing training, advice and support on financial management, strategic asset management, tax administration and accounting operations. Information is being provided to schools about procurement and supported through the Client Procurement Services website. State wide training programs are being standardised and upgraded. These are presented by staff of the new directorate in collaboration with the Professional Learning Institute ('PLI') and the Leadership Centre.
- 38. The PLI has been established by the Department to design, promote and deliver professional development programs for education staff. The PLI has specifically targeted improving financial management in schools through the development of training for school registrars and business managers.
- 39. The PLI in collaboration with the Leadership Centre, which represents associations for school leaders, have targeted professional development in financial management for principals and deputy principals through the promotion and delivery of training modules for;
  - (a) budgetary planning and control;
  - (b) financial reports and reporting;
  - (c) risk management.
- 40. On completion of the modules principals and deputy principals should be able to, amongst other things:
  - (a) identify key elements and processes of budget planning and control;
  - (b) effectively review and endorse financial statements; and
  - (c) be aware of critical risk management policies and practices.
- 41. As part of the New Principals Program developed by the PLI, any newly appointed principal, who has not previously undertaken the financial management training modules, will be required to undertake the modules as part of a 3 day fast track school management program.

**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.

- 42. The Department's position is that Hurson and its directors are responsible for the payment of wages and superannuation of staff employed by Hurson. The Department paid Hurson to deliver the Program, and Hurson employed staff for that purpose. The fact that a company which is refusing to pay its debts, was providing services to the Department, is not in itself sufficient to impose liability on the Department for any unpaid monies.

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43. Whether any of Hurson's employees have a claim for damages against the Department on the basis, say, that they suffered harm as a consequence of their reasonably relying upon an action or representation by the Department or School, or their employees or agents, is a factual and legal issue that would need to be considered on a case by case basis. If the Department is liable to a Hurson's employee then it will pay compensation to that employee.
44. In and around June 2006, the Department made specific payments to Hurson for the purpose of Hurson paying unpaid wages to its employees. Agreements were reached between Hurson and its employees about the unpaid wages and consequential payments were made by Hurson to its employees. The Department made payments to Hurson for this purpose. After June the Program continued until October 2006 when it ceased. During that period the Department paid Hurson for the delivery of the Program.
45. After the Program ceased, Hurson issued a without prejudice letter of demand for the non-payment of a number of invoices in relation to services allegedly provided by Hurson from October 2005 to January 2006. The Department's response to this claim is dealt with in the response to Recommendation 12.
46. The claim by Carton, on behalf of Hurson, to the Committee that Hurson will not pay superannuation accrued by its employees during the period of the Program, because the Department owes Hurson money, is not sustainable in the circumstances. The fact that Hurson believes that the Department owes it money, is not in itself justification for Hurson's failure to meet its legal obligation to pay superannuation to its employees.

**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.

47. The Department does not have a legal basis to recover from Hurson monies owed by Hurson to its employees. In any event, the Department is not able to determine what amounts Hurson owes to those that it employed. If Hurson owes wages and superannuation to its former employees then Hurson is legally bound to pay those monies. If former employees believe they are owed wages and superannuation, then legally they can pursue Hurson.
48. As stated in the response to Recommendation 11, if there are employees of Hurson who have suffered a loss of wages or superannuation because of conduct or representations by the School or Department, through an employee or agent, breaching a duty of care, those employees may have a claim to compensation against the Department.
49. In relation to claims by Hurson that the Department owes it money, the Department has clearly expressed, from November 2006 to November 2007, to Hurson that it has significant doubts about the validity and accuracy of such claims. The Department, in correspondence dated 14 November 2007, also requested that Hurson provide invoices for the monies being claimed that show the course being delivered, the staff involved in delivering that course and any other relevant information that will allow it to verify the claim for the monies.



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50. Hurson has not provided this information, nor communicated in any way about the claims since October 2007.

**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.

51. The Department has provided ongoing assistance and support to employees affected by the Balga Works program through its line managers and the Departments Employee Support Bureau's Employee Assistance Program.
52. In July 2008 the A/Executive Director Workforce wrote to twelve employees who had been involved in the program, bringing to their attention the availability of a free confidential counselling service. Confidential counselling is available to all Departmental staff and their immediate family members under 18 years of age, through the Employee Assistance Program. Six free sessions are available in a twelve month period, on personal or work related issues.
53. In addition, the Employee Support Bureau has been directed that anyone employed in the program may access this free service, if they approach the Department.

**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.

54. The Department has identified 53 students who were enrolled in the Balga Works program. Of these, 28 (52%) were beyond compulsory school age at the end of 2006.
55. Of the remaining 25, 17 had ongoing contact with the Department's Participation Coordinators. Some of the outcomes recorded in the case notes for these students are:
- doing community service two days a week;
  - exploring Certificate I automotive options;
  - working;
  - went on camp with Balga Detached;
  - moved to Adelaide to live with sister;
  - on remand;
  - working and studying at Swan TAFE;
  - keen to do further study, being monitored.
56. Four of the 25 students are currently enrolled in school. Another four are unaccounted for.

### 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.

57. The Department's position is that currently schools are provided with funding in a way that allows the school a degree of flexibility in how programs, innovative or otherwise, are resourced. There is a balance required between flexibility in resourcing provided to principals and accountability systems, so that one is not disproportionately burdensome on the other. The Balga Works Program provides a practical demonstration of the tension between flexibility and accountability.

58. The Department is working to achieve a good balance between flexibility and accountability. The Department has commenced a review of resourcing mechanisms to ensure that resourcing, principally funding, keeps pace with the needs of the changing operating environment of a school. Regardless, the current means of providing funds to schools:

- (a) allows for the provision of special initiative funding; and
- (b) gives a school a degree of flexibility in how it uses school funds.

59. All funding transferred to schools goes through the school grant gateway process and is included on the school resourcing budget statement provided to the school. The budget statement identifies all grant, special purpose and salary adjustment applications. This assists the schools to budget according to its identified needs and priorities. The three types of funding providing to schools, which are detailed in the budget statement are: School Grant Funds, Special Purpose Grants, and School Salary Pool.

60. School Grant Funds:

- (a) This is the major source of income for most schools that is provided at the beginning of the first semester in February, and the beginning of the second semester in July. The second payment includes all remaining allocations based on adjustments made on the basis of staffing and enrolment figures provided in the February school census.
- (b) The school grant is formula-driven and comprises a core grant based on the category of school and a per capita payment based on the year level of the students at the school.
- (c) Additional payments to meet specific school needs are paid based on site characteristics, student characteristics, school characteristics and program grants. These include funding for cleaning, gardening, and equipment repair and replacement, admin travel, personal protective equipment, information and communication technology funding and various other school-based requirements.
- (d) Schools also receive a school development grant to resource the school planning process and provide for the professional development of both teaching and non-teaching staff. The allocation is based on the size, type and geographical location of the school.
- (e) Schools can request some of their school grant funds be placed into the school salary pool to enable the school to employ relief staff when other staff are undertaking professional development or other duties determined by the school.



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61. Special Purpose Grants:

- (a) In addition to school grant funding, schools receive other funds known as Special Purpose Grants. These grants are also transferred to schools at the beginning of each semester. If required, top up funds may be transferred at special gateway periods in April and October.
- (b) Special Purpose Grants are for specific projects and initiatives that have specified timelines and objectives. Special Purpose Grants do not take into account the same variables used to calculate school grants.

62. School Salary Pool:

- (a) Schools also receive funds that are allocated to the School Salary Pool. These funds are placed into a centrally held salary pool and schools draw down on these throughout the year when engaging relief staff. The salary pool, however, is not used to employ relief teachers resulting from teacher absence due to sickness or other types of leave entitlements. The salary pool is used when the school intends to pay for the relief staff at their discretion and initiative.
- (b) Schools that do not use their salary pool fund in a year receive the unused funds as part of their grant in the next year.
- (c) Each year schools also receive funding for administrative support. These funds are placed into the school salary pool and provided to support clerical functions by non-teaching staff. The amount that each school receives is dependent on the student population and is automatically adjusted in July each year based on actual numbers. Other funds can also be transferred in additional funding gateways that occur in April and October.



**APPENDIX 2**  
**RESPONSE FROM THE MINISTER FOR EDUCATION**



## APPENDIX 2

### RESPONSE FROM THE MINISTER FOR EDUCATION

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Minister for Education; Tourism



Our ref: 28-09763

Hon Giz Watson MLC  
Chair  
Standing Committee on Estimates and Financial Operations  
Parliament House  
PERTH WA 6000

Dear Ms Watson

Thank you for your letter of 31 March 2009 seeking a response from me in relation to recommendation 4 of the Standing Committee on Estimates and Financial Operations' (Committee's) *Report 12: Balga Works Program* (Report).

Shortly after my appointment as Minister for Education, the Director General of the Department of Education and Training (Department) provided me with the Department's proposed response to the Report. I then met with the Director General and other officers of the Department to discuss the proposed response. On 14 November 2009, I provided the Committee with the Department's response to the Report.

I understand that the Committee's position was that the Department's initial response failed fully to appreciate and take responsibility for the concerns of those persons adversely affected by the Balga Works Program (Program). On the basis of the information provided to me and the contents of the Report, I am of the opinion that the Department could have better managed the Program and responded more effectively and proactively at the time.

The Director General has recently apologised for any adverse effects suffered by individuals as a result of the Department's handling of the Program and its aftermath. With the concurrence and assistance of the Hon Peter Collier MLC, Minister for Training, the Director General also gave an undertaking to the Committee to identify and write to individuals adversely affected by the Program, offering them the opportunity to express their views about the Program and to discuss support that might be available to them.

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By doing so, I am satisfied that the Department appreciates the concerns raised by the Committee and is taking positive steps to remedy the situation.

I note that the Report demonstrates that the facts and details of the Program, along with the relationships between parties involved with the Program, were complex and unclear. In the circumstances, it is not reasonable for me to comment on possible breaches of a duty of care to unspecified individuals. Such questions are best addressed on a case-by-case basis.

In conclusion, I thank the Committee for their work in examining the facts and circumstances of the Program, identifying deficiencies with the Department's management of the Program and the support it offered to those affected by the Program. In response, the Department has now put in place financial and other management arrangements that will better address those issues identified by the Committee in its Report.

Please let me know if I can be of any further assistance to the Committee.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Elizabeth Constable', is positioned above the printed name.

**DR ELIZABETH CONSTABLE MLA  
MINISTER FOR EDUCATION; TOURISM**

28 APR 2009