
Appendix one – Response from agencies

Response from Department of Premier and Cabinet and NSW Treasury



Ref: A5242254

Ms Margaret Crawford
Auditor-General for New South Wales
Audit Office of New South Wales
GPO Box 12
SYDNEY NSW 2001

Dear Ms Crawford

Final Report – Machinery of government changes

We write in relation to your letters to the Department of Premier and Cabinet (DPC) and Treasury respectively dated 18 and 19 November 2021, which enclosed the final report for the performance audit on machinery of government (MoG) changes at the Department of Planning, Industry and Environment and the Department of Regional NSW (the **Final Report**).

Thank you for providing us with the opportunity to engage with your office in the finalisation of this audit, including by accepting and addressing our comments on the draft report. As invited by you, we set out below our formal response to the final report on behalf of DPC and Treasury, to be incorporated into the published report.

Agencies' ability to track and report on the costs and benefits of MoG changes

It is acknowledged in the Final Report that MoG changes are made by the Governor on the advice of the Premier under Part 7 of the *Constitution Act 1902*. In response to DPC's comments on the draft report, text was added to the Final Report to recognise explicitly that decisions in relation to MoG changes are made by the Premier.

However, you maintain in the Final Report that affected agencies should track and report on the costs and benefits of these decisions.

In particular, the Final Report states the following (on page 3 – emphasis added):

DPC and NSW Treasury advised that they did not define the rationale or anticipated benefits of machinery of government changes because the changes are made at the request of the Premier and the reasoning behind the changes is a matter for the Premier, not the departments implementing them. DPC and NSW Treasury also stated that the purpose of some machinery of government changes may include policy or political benefits for the government, which agencies could not articulate or monitor.

We acknowledge that the reasons for making machinery of government changes, and the desired benefits of the changes, are decided by the Premier. However, the public service's role includes ensuring that there is accountability for the use of public funds. In the case of machinery of government changes, this should include tracking and reporting on the benefits and costs of these activities to enable appropriate transparency and accountability.

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The Report provides further that (on page 15):

The government sector core values include “providing transparency to enable public scrutiny”, and “focusing on the efficient, effective and prudent use of resources”. In the case of machinery of government changes, this should include attempting to track and report on the costs and benefits of the changes.

The government sector core values cited in your Report underpin the work of the government sector and we support them entirely. A commitment to accountability, transparency and the efficient use of resources is critical in the work we do.

There are, however, two main limitations on the ability of agencies to track and report on the costs and benefits of MoG changes. First, the role of the public service is to serve the government of the day, in an apolitical and impartial way. Consistent with Westminster principles, advice provided to the government should be frank and fearless. However, once the government makes a decision, including that a change to the structure of the public service is to be made, it is the responsibility of agencies to implement that decision rather than audit or review that matter, unless requested to undertake such a review by the government.

Secondly, it would be challenging for agencies to capture the costs and benefits of any MoG change adequately. This is because the reasoning behind any MoG change is a matter for the Premier and not the public service. As such, any attempt by agencies to measure and report on the costs and benefits of a MoG change would not be conclusive. Further, changes to the structure of the public service which are made by the Premier in order to set a new or stronger focus on certain areas are not necessarily quantifiable in financial terms.

In our experience, agencies affected by MoG changes place great emphasis on the efficiency of the implementation process. We support recommendations that would further enhance efficiencies, including through enhanced transparency. However, any such recommendations can only be applied in a manner that is consistent with the role of agencies in relation to MoG changes.

Response to recommendations

The first recommendation made in the Final Report is that DPC and Treasury consolidate existing guidance on MoG changes into a single document that is available to all Departments and agencies. We acknowledge that, as stated in the Final Report, several guidance documents were circulated across government while the relevant MoG changes were being implemented. We agree that it would be beneficial to have a single source of information for MoG changes and will seek to develop this guidance within the timeframe given in the Final Report (by November 2022).

That recommendation also provides that this consolidated guidance should include:

- a requirement that Departments subject to a MoG change must publish information about the estimated costs and benefits of the change in its next annual report
- guidance on how to measure and report estimated costs and benefits of MoG changes.

We have outlined above our concerns with this aspect of the recommendation. We understand from our correspondence with your office in relation to this audit that the intent of this component of Recommendation 1 is not to require agencies to comment on MoG changes, but rather to support transparency and accountability for the implementation of these decisions.

On that basis, and in line with the limitations discussed above, we will seek to give effect to this part of Recommendation 1 by encouraging agencies to identify, estimate and publish those direct and measurable costs and benefits associated with the implementation of a MoG change, where those costs and benefits are reasonably able to be captured.

Recommendation 2 provides that DPC and Treasury should provide guidance for Departments and agencies to use when negotiating corporate services staff transfers as a part of a MoG change. As is acknowledged in the Final Report, we note that there was some guidance provided by DPC and

Treasury as part of the 2019 MoG changes. We will review, refresh and recirculate that guidance to make it as clear and effective as possible.

Recommendation 3 is that DPC and Treasury progress work to develop and implement common processes and systems for corporate services in order to support more efficient movement of staff between Departments and agencies. We support this recommendation and note that there are already projects underway across the sector that will help to achieve this outcome. These projects include the SAP ERP harmonisation project (Project PATH), and the CFO of the Sector initiative (which includes five priority sub-initiatives, including financial management framework refresh and capability uplift).

Thank you again for your engagement with DPC and Treasury in preparing your report.

Yours sincerely



Michael Coutts-Trotter
Secretary
Department of Premier and Cabinet

10 December 2021



Michael Pratt AM
Secretary
Treasury

15 December 2021

Response from Department of Planning, Industry and Environment



Planning,
Industry &
Environment

Office of the Secretary

IRF21/4964

16 December 2021

Ms Margaret Crawford
Auditor-General for New South Wales
GPO Box 12
SYDNEY NSW 2001

Dear Ms Crawford

Performance Audit: Machinery of government changes

Thank you for the opportunity to provide a formal response on this audit for inclusion in the final report to be tabled in Parliament.

As Machinery of Government changes are made by the Governor on the advice of the Premier under Part 7 of the *Constitution Act 1902*, it would be appropriate for the formal response to be provided by the Department of Premier and Cabinet rather than the Department of Planning, Industry and Environment.

I would though like to take this opportunity to acknowledge the important work undertaken by your team and thank your office for its work in relation to this and other matters.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kiersten Fishburn'.

Kiersten Fishburn
Secretary

Response from Department of Regional NSW



Regional
NSW

CM9 reference RVF20/10#19

Ms Margaret Crawford
NSW Auditor-General
NSW Audit Office
GPO Box 12
SYDNEY NSW 2001

15 12 2021

Dear Ms Crawford,

Performance Audit – Machinery of Government Changes

Thank you for the opportunity to respond to the Performance Audit Report (the Report) on Machinery of Government Changes. The Department of Regional NSW (RNSW) notes the final report and its recommendations. DRNSW supports the implementation of recommendations that will improve the way in which Machinery of Government changes are implemented across the NSW Public Sector.

Staff at RNSW appreciated the opportunity to share their insights and contribute to this audit. While RNSW is not directly responsible for the recommendations in the Report, we would encourage the Department of Premier and Cabinet and Treasury NSW to draw on the insights of RNSW staff, who can help shape the various measures to be put in place by November 2022.

Thanks to you and your team for the insights that the audit has provided.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gary Barnes'.

Gary Barnes
Secretary