

SPECIAL REPORT

20 JUNE 2023

Special report into the financial affairs of the Catholic Metropolitan Cemeteries Trust

NEW SOUTH WALES AUDITOR-GENERAL'S REPORT

THE ROLE OF THE AUDITOR-GENERAL

The roles and responsibilities of the Auditor-General, and hence the Audit Office, are set out in the *Government Sector Audit Act 1983* and the *Local Government Act 1993*.

We conduct financial or 'attest' audits of state public sector and local government entities' financial statements. We also audit the Consolidated State Financial Statements, a consolidation of all state public sector agencies' financial statements.

Financial audits are designed to give reasonable assurance that financial statements are true and fair, enhancing their value to end users. Also, the existence of such audits provides a constant stimulus to entities to ensure sound financial management.

Following a financial audit the Audit Office issues a variety of reports to entities and reports periodically to Parliament. In combination, these reports give opinions on the truth and fairness of financial statements, and comment on entity internal controls and governance, and compliance with certain laws, regulations and government directives. They may comment on financial prudence, probity and waste, and recommend operational improvements.

We also conduct performance audits. These assess whether the activities of government entities are being carried out effectively, economically, efficiently and in compliance with relevant laws. Audits may cover all or parts of an entity's operations, or consider particular issues across a number of entities. Our performance audits may also extend to activities of non-government entities that receive money or resources, whether directly or indirectly, from or on behalf of government entities for a particular purpose.

As well as financial and performance audits, the Auditor-General carries out special reviews, compliance engagements and audits requested under section 27B(3) of the *Government Sector Audit Act 1983*, and section 421E of the *Local Government Act 1993*.

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Sydney NSW 2001

The Legislative Assembly
Parliament House
Sydney NSW 2000

The Legislative Council
Parliament House
Sydney NSW 2000

In accordance with section 52B of the *Government Sector Audit Act 1983*, I present a special report titled '**Special report into the financial affairs of the Catholic Metropolitan Cemeteries Trust**'.

A handwritten signature in black ink, appearing to read 'Margaret Crawford'.

Margaret Crawford PSM
Auditor-General for New South Wales
20 June 2023



RECONCILIATION COMMITMENT STATEMENT

The Audit Office of New South Wales pay our respect and recognise Aboriginal people as the traditional custodians of the land in NSW.

We recognise that Aboriginal people, as custodians, have a spiritual, social and cultural connection with their lands and waters, and have made and continue to make a rich, unique and lasting contribution to the State. We are committed to continue learning about Aboriginal and Torres Strait Islander peoples' history and culture.

We honour and thank the traditional owners of the land on which our office is located, the Gadigal people of the Eora nation, and the traditional owners of the lands on which our staff live and work. We pay our respects to their Elders past and present, and to the next generation of leaders.

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Section one

Special Report into the
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Cemeteries Trust

Letter to the Minister for Lands and Property



The Hon. Stephen Kamper MP
Minister for Small Business
Minister for Lands and Property
Minister for Multiculturalism
Minister for Sport
52 Martin Place
SYDNEY NSW 2001

Contact: Claudia Migotto
Phone no: 02 92757109
Our ref: D2308135

14 June 2023

Dear Minister,

Special Report into the financial affairs of the Catholic Metropolitan Cemeteries Trust

Thank you for our meeting on 1 May 2023. I appreciated the opportunity to discuss the request of 10 December 2021 by the then Minister for Water, Property and Housing for the Auditor-General to undertake a financial and performance audit into the financial affairs of the Catholic Metropolitan Cemeteries Trust (CMCT), pursuant to section 27B(3)(c) of the *Government Sector Audit Act 1983* (the GSA Act). I am writing in relation to this request, which I have included as Attachment A.

Following the former Minister's request, NSW Treasury confirmed CMCT is a controlled entity of the State. This means CMCT is subject to my financial and performance audit mandate as provided for in the GSA Act. CMCT has sought to contest NSW Treasury's determination but has not provided me with a detailed explanation of its rationale for this. Following NSW Treasury's determination, I wrote to the Chair of CMCT on 16 September 2022 advising that I would commence the requested performance audit. I emphasised my obligation to undertake this audit under section 27B(3)(c) of the GSA Act again on 9 December 2022 in a letter to the Chair of CMCT. I also wrote to the Secretaries of the Department of Planning and Environment and NSW Treasury on 16 September 2022 informing them of this audit.

My Office wrote to the Chair of CMCT on 4 October 2022 requesting documents that would be required to conduct this performance audit. This request was made under section 36(1) of the GSA Act, which entitles the Audit Office to full and free access to the books, records and other documents of the entities subject to our audit mandate. I again wrote to the Chair of CMCT on 19 October 2022, 27 October 2022, and 18 November 2022 reiterating this request.

Attachment B contains a summary of all correspondence I and my office have sent to the Chair of CMCT in relation to this request.

The scope of this performance audit, as communicated to CMCT in my letter of 3 February 2023, is to assess the effectiveness of CMCT's financial management arrangements. The audit criteria are:

1. Has CMCT complied with and met the objectives of the *Cemeteries and Crematoria Act 2013*, *Government Sector Finance Act 2018* and other legislation relevant to financial management?
2. Do CMCT's internal controls, risk and other management processes support effective financial management?
3. Does CMCT have an effective governance framework for financial management to ensure accountability, transparency and integrity?
4. Have funds been used for their allowable purpose?

As yet, my Office has not been provided access to the management, books and records of the entity, nor been provided with information, explanation or assistance for the purposes of my performance audit. This situation has not been encountered previously and should not be seen, nor accepted as appropriate. I wrote to the Chair of CMCT on 3 February 2023 advising that CMCT was limiting the scope of my audit by not providing this information.

Separately, but somewhat related, in my Report on State Finances 2022, I modified my financial audit opinion on the Total State Sector Accounts to include a limitation of scope due to my Office's inability to access management and the books and records of CMCT for the purposes of a financial audit of its financial statements. I recommended that NSW Treasury and the Department of Planning and Environment should ensure CMCT meets its statutory reporting obligations.

As I have not been provided access to CMCT's books and records relevant to the conduct of my audit, this means I am unable to conduct a performance audit in order to conclude on the financial affairs of the CMCT, as requested under section 27B(3)(c) of the GSA Act. Again I restate, being denied access to management, and to proper books and records for the purposes of conducting statutorily required financial and performance audits should not be normalised, nor considered appropriate. It significantly impairs transparency and accountability and raises questions about the stewardship of resources. In order to provide transparency to the Parliament on the outcome of the requested activity, I will table this letter in Parliament in accordance with section 52B of the GSA Act on 20 June 2023.

Should your staff require further information on this matter, please do not hesitate to contact Vanessa Gill, Executive Officer at vanessa.gill@audit.nsw.gov.au.

Yours sincerely



Margaret Crawford PSM

CC: The Hon. Daniel Mookhey MLC, Treasurer
Ms Kiersten Fishburn, A/Secretary, Department of Planning and Environment
Mr Michael Coutts-Trotter, Secretary, NSW Treasury

**Attachment A – Initial request from Minister for Water, Property and Housing –
10 December 2021**



The Honourable Melinda Pavey MP
Minister for Water, Property and Housing

BN21/6694

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

Dear Auditor-General

I write to request a financial and performance audit into the financial affairs of the Catholic Metropolitan Cemeteries Trust, pursuant to section 27B(3)(c) of the *Government Sector Audit Act 1983*. I understand that the Trust has not submitted its financial statements to the Audit Office for inspection as required under section 7.6 of the *Government Sector Finance Act 1986*.

I attach reports of recent allegations made in the NSW Parliament by Mr Shoebridge MLC and in the media about the misuse of funds by the Trust. While evidence has not been provided in support of these allegations, a financial and performance audit of the Trust will examine whether funds have been used for their proper purpose.

Accordingly, I request the Audit Office undertake a full audit of the financial affairs of the Trust as a matter of urgency to put the matter beyond doubt. I would appreciate you providing me with an indication of the timeframe for commencing the audit and likely timeframe to be informed of the outcome.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Pavey'.

Melinda Pavey MP
Minister for Water, Property and Housing

Encl.

Date signed: 10/12/2021

GPO Box 5341 Sydney NSW 2001 ■ P: (02) 8574 7300 ■ F: (02) 9339 5570 ■ W: nsw.gov.au

Attachment B – Timeline of correspondence to CMCT

Date	Sender	Purpose of correspondence
16 September 2022	Auditor-General	Advising that CMCT has not met obligations to prepare financial statements and that the Audit Office would commence the requested performance audit. Also requesting that CMCT make arrangements for the Audit Office to conduct these audits.
30 September 2022	Auditor-General	Advising of intention to continue with the financial and performance audits following a request to delay these.
4 October 2022	Assistant Auditor-General	Requesting documents for performance audit by 18 October 2022 pursuant to s. 36(3) of the GSA Act, and offering to meet to discuss the audit.
19 October 2022	Auditor-General	Reiterating staff availability to discuss performance audit and request for documents for performance audit.
27 October 2022	Auditor-General	Reiterating staff availability to discuss performance audit and requesting CMCT to provide access to the information.
18 November 2022	Auditor-General	Reiterating obligations of CMCT to prepare financial statements and reiterating the request to meet with Audit Office staff and provide documents for the performance audit.
9 December 2022	Auditor-General	Reiterating obligations of CMCT to prepare financial statements and that the AG does not have discretion to cease an audit requested by a Minister.
3 February 2023	Auditor-General	Advising CMCT of the scope of the performance audit, and that due to CMCT not providing sufficient and appropriate evidence, CMCT was limiting the scope of the audit.
14 June 2023	Auditor-General	Advising CMCT that this letter would be tabled in Parliament.

Section two

Appendix

Appendix one – Performance auditing

What are performance audits?

Performance audits assess whether the activities of State or local government entities are being carried out effectively, economically, efficiently and in compliance with relevant laws.

The activities examined by a performance audit may include a government program, all or part of an audited entity, or more than one entity. They can also consider particular issues which affect the whole public sector and/or the whole local government sector. They cannot question the merits of government policy objectives.

The Auditor General's mandate to undertake audits is set out in the *Government Sector Audit Act 1983* for state government entities, and in the *Local Government Act 1993* for local government entities. This mandate includes audit of non-government sector entities where these entities have received money or other resources, (whether directly or indirectly) from or on behalf of a government entity for a particular purpose (follow-the-dollar).

Why do we conduct performance audits?

Performance audits provide independent assurance to the NSW Parliament and the public.

Through their recommendations, performance audits seek to improve the value for money the community receives from government services.

Performance audits are selected at the discretion of the Auditor-General who seeks input from parliamentarians, State and local government entities, other interested stakeholders and Audit Office research.

How are performance audits selected?

When selecting and scoping topics, we aim to choose topics that reflect the interests of parliament in holding the government to account. Performance audits are selected at the discretion of the Auditor-General based on our own research, suggestions from the public, and consultation with parliamentarians, agency heads and key government stakeholders. Our three-year performance audit program is published on the website and is reviewed annually to ensure it continues to address significant issues of interest to parliament, aligns with government priorities, and reflects contemporary thinking on public sector management. Our program is sufficiently flexible to allow us to respond readily to any emerging issues.

What happens during the phases of a performance audit?

Performance audits have three key phases: planning, fieldwork and report writing.

During the planning phase, the audit team develops an understanding of the audit topic and responsible entities and defines the objective and scope of the audit.

The planning phase also identifies the audit criteria. These are standards of performance against which the audited entity, program or activities are assessed. Criteria may be based on relevant legislation, internal policies and procedures, industry standards, best practice, government targets, benchmarks or published guidelines.

During the fieldwork phase, audit teams will require access to books, records, or any documentation that are deemed necessary in the conduct of the audit, including confidential information which is either Cabinet information within the meaning of the *Government Information (Public Access) Act 2009*, or information that could be subject to a claim of privilege by the State or a public official in a court of law. Confidential information will not be disclosed, unless authorised by the Auditor-General.

At the completion of fieldwork, the audit team meets with management representatives to discuss all significant matters arising out of the audit. Following this, a draft performance audit report is prepared.

The audit team then meets with management representatives to check that facts presented in the draft report are accurate and to seek input in developing practical recommendations on areas of improvement.

A final report is then provided to the accountable authority of the audited entity(ies) who will be invited to formally respond to the report. If the audit includes a follow-the-dollar component, the final report will also be provided to the governing body of the relevant entity. The report presented to the NSW Parliament includes any response from the accountable authority of the audited entity. The relevant Minister and the Treasurer are also provided with a copy of the final report for State Government entities. For local government entities, the Secretary of the Department of Planning and Environment, the Minister for Local Government and other responsible Ministers will also be provided with a copy of the report. In performance audits that involve multiple entities, there may be responses from more than one audited entity or from a nominated coordinating entity.

Who checks to see if recommendations have been implemented?

After the report is presented to the NSW Parliament, it is usual for the entity's Audit and Risk Committee / Audit Risk and Improvement Committee to monitor progress with the implementation of recommendations.

In addition, it is the practice of NSW Parliament's Public Accounts Committee to conduct reviews or hold inquiries into matters raised in performance audit reports. The reviews and inquiries are usually held 12 months after the report received by the NSW Parliament. These reports are available on the NSW Parliament website.

Who audits the auditors?

Our performance audits are subject to internal and external quality reviews against relevant Australian standards.

The Public Accounts Committee appoints an independent reviewer to report on compliance with auditing practices and standards every four years. The reviewer's report is presented to the NSW Parliament and available on its website.

Periodic peer reviews by other Audit Offices test our activities against relevant standards and better practice.

Each audit is subject to internal review prior to its release.

Who pays for performance audits?

No fee is charged to entities for performance audits. Our performance audit services are funded by the NSW Parliament.

Further information and copies of reports

For further information, including copies of performance audit reports and a list of audits currently in-progress, please see our website www.audit.nsw.gov.au or contact us on 9275 7100.

OUR VISION

Our insights inform and challenge government to improve outcomes for citizens.

OUR PURPOSE

To help Parliament hold government accountable for its use of public resources.

OUR VALUES

Pride in purpose

Curious and open-minded

Valuing people

Contagious integrity

Courage (even when it's uncomfortable)

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