

Western Australian Auditor General's Report



Opinions on Ministerial Notifications



Report 1: July 2019-20

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The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.

WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

Opinions on Ministerial Notifications

Report 1
July 2019-20



**THE PRESIDENT
LEGISLATIVE COUNCIL**

**THE SPEAKER
LEGISLATIVE ASSEMBLY**

Opinions on Ministerial Notifications

This report has been prepared for Parliament under the provisions of section 24 of the *Auditor General Act 2006*.

This report deals with a decision by the Minister for Tourism, the Hon Paul Papalia MLA, not to provide a research report to Parliament by BDA Marketing Planning titled *High Value Traveller Research, October 2018*.

It also deals with a section 82 notice from the Minister for Regional Development, the Hon Alannah MacTiernan MLC, where an opinion was not required about the scope of works and business cases for each project funded from the remote swimming pool program.

A handwritten signature in black ink, appearing to read "Caroline Spencer".

CAROLINE SPENCER
AUDITOR GENERAL
19 July 2019

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Ministerial decisions not to provide information to Parliament

Introduction

This report deals with a decision by the Minister for Tourism, the Hon Paul Papalia MLA, not to provide a research report to Parliament by BDA Marketing Planning (BDA) titled *High Value Traveller Research, October 2018*.

It also deals with a section 82 notice from the Minister for Regional Development, the Hon Alannah MacTiernan MLC, where an opinion was not required about the scope of works and business cases for each project funded from the remote swimming pool program.

Section 82 of the *Financial Management Act 2006* (the FM Act) requires a Minister who decides that it is reasonable and appropriate not to provide certain information to Parliament, to give written notice of the decision to both Houses of Parliament and the Auditor General within 14 days of the decision.

Section 24 of the *Auditor General Act 2006* (AG Act) requires the Auditor General to provide an opinion to Parliament as to whether the Minister's decision was reasonable and appropriate.

What we did

The Audit Practice Statement on our website (www.audit.wa.gov.au) sets out the process we follow to arrive at our section 82 opinions, including:

- a review of entity documents
- a review of any advice provided to the relevant Minister by entities, the State Solicitor's Office (SSO) or other legal advisers
- interviews with key entity persons including discussions about our draft findings and the Auditor General's opinion.

Our procedures are designed to provide sufficient appropriate evidence to support an independent view to Parliament on the reasonableness and appropriateness of the Minister's decision.

We have not performed an audit, however our procedures follow the key principles in the Australian Auditing and Assurance Standards.

Ministerial decision not to provide the High Value Traveller Research report

Opinion

The decision by the Minister for Tourism not to provide Parliament with a research report by BDA titled *High Value Traveller Research, October 2018* was reasonable and therefore appropriate.

Background

In Parliament on 19 March 2019, Ms Libby Mettam MLA asked the Minister for Tourism the following questions related to Tourism WA's marketing campaign "Western Australia the Road Trip State".

- (a) *Will the Minister table the research conducted by BDA Marketing Planning titled People Prophets Tracker, Year ending April 2018? If not, why not;*
- (b) *Will the Minister table the research undertaken by BDA Marketing Planning titled "High Value Traveller Research, October 2018"? If not, why not;*
- (c) *On what date was the October 2018 research provided to the Department of Jobs, Tourism, Science and Innovation;*
- (d) *How much funding has been allocated to market "Western Australia the Road Trip State" to other States and Territories in Australia; and*
- (e) *Will the Minister provide a breakdown of the funding allocated to market "Western Australia the Road Trip State" to other States and Territories in Australia, including the amount of funding allocated for marketing to each State and Territory?*

The Minister provided answers to all parts of the question. However, in responding to part (b) the Minister replied:

- (b) *The release of information contained in BDA Marketing Planning's "High Value Traveller Research, October 2018" report could undermine Tourism WA's competitive advantage. Accordingly, I will notify the Auditor General's office and both houses of Parliament that part (b) of this question will not be answered as per section 82 of the Financial Management Act 2006. However, Tourism WA has created summaries of the High Value Traveller target market that draw on the key learnings from the High Value Traveller research undertaken by BDA. [See tabled paper no 2303.]*

The Minister's full response is included in Appendix 1. Tabled paper number 2303 can be found on the Parliament website.

On 1 April 2019, the Auditor General received the Minister's notification of the decision not to provide the requested information, in accordance with section 82 of the FM Act.

Key findings

The decision by the Minister not to provide the requested information was reasonable and therefore appropriate.

The Minister properly sought advice from the Department of Jobs, Tourism, Science and Innovation (the Department) before responding to the request. The Department recommended the Minister decline to provide the research as it contained commercially sensitive information and releasing it could undermine Tourism WA's competitive advantage.

The Department's recommendation was based on an assessment against its *Release of Event Sponsorship Information and/or other Commercial Information policy and guidelines*. As we have previously determined, this document provides suitable criteria for assessing if information is commercially sensitive.

We determined that the Department's advice was sound, as:

- the research was not publicly known or easily ascertainable at the time the Minister was asked the Parliamentary question. In answering the question, the Minister did provide Parliament with high level summaries drawn from the research but did not provide other information such as BDA's research methods and detailed analysis
- the detailed analysis included in the research has significant commercial value to Tourism WA. As we have previously acknowledged¹, all jurisdictions actively compete for visitors and travel partners to deliver campaigns. These jurisdictions could use the detailed analysis to gain a competitive advantage. Future campaigns could become more expensive for Tourism WA to deliver
- the research has a commercial value to BDA. While the contract terms do not preclude the release of the information on the request of Parliament, the Department consulted with BDA about the release of the research report and BDA requested that the report remain confidential. Releasing BDA's research methods and analysis would likely cause damage to BDA and the Department's commercial relationship with BDA. This may limit the Department's ability to negotiate favourable terms and conditions with future market research providers.

In our view, the Minister's decision not to provide the research report is consistent with the public interest of protecting and reducing the risk of damage to the financial and commercial affairs of the State.

¹ Western Australian Auditor General's Report, Opinions on Ministerial Notifications. Report 8: December 2018-19, pages 6 & 8.

No opinion required as the information does not exist

On 24 October 2018, we received a notice from the Minister for Regional Development, the Hon Alannah MacTiernan MLC, under section 82 of the *Financial Management Act 2006*. The notice related to the scope of works and business cases for the construction of swimming pools at Balgo and Kalumburu.

We determined that an opinion was not required in relation to the Minister's decision not to provide the information to Parliament. This is because the scope of works and business cases did not exist. Therefore, there could be no refusal to provide them.

In Question 2(f) prior to the Estimates and Financial Operations Committee 2018-19 Budget Estimates Hearings of the Department of Primary Industries and Regional Development (Department), the Hon Martin Aldridge MLC asked the Minister for the following information:

2. *I refer to line item 'remote swimming pools' on page 177 of budget paper 3 and I ask:*

(f) Please provide the scope of works and business cases for each project funded from the program?

On 21 June 2018, the Minister replied:

This is a State Government election commitment that is being delivered by the Department of Communities.

Documents provided in support of this funding allocation were submitted to the Expenditure Review Committee and are Cabinet in Confidence.

The Department of Communities is working to finalise a scope of works and detailed design for both pools and caretaker facilities. I am advised the scope will include:

- *Detailed design of community pool facility and pool manager's house at Balgo and Kalumburu;*
- *Demolition of existing non-residential dwelling at Balgo;*
- *Construction of pool and facilities, including shade structures, change rooms with toilets and shower facilities, Pool Manager's office, kiosk and first aid room, storage areas, internal landscaping, seating and table fixtures, internal lighting, power, water, sewer and stormwater, perimeter fencing and gated entrance, adjoining car parking facilities, and initial fill and treatment of pool water;*
- *Pool design and construction at Balgo and Kalumburu to comply with BCA and Department of Health Code of Practice for the design, construction, operational, management and maintenance of aquatic facilities;*
- *Construction of residential dwellings, built to remote housing specification;*
- *As-construction survey of pool and house developments.*

Any request for further information should be directed to the Minister for Housing, Hon Peter Tinley MLA.

The Minister properly sought advice from the Department before responding to the question. The Department advised that the 2 swimming pools were an election commitment and that business cases were not required and had not been prepared.

We viewed documents submitted to the Expenditure Review Committee and found they did not contain the scope of works or business cases for swimming pools at Balgo and Kalumburu.

We determined that an opinion pursuant to section 24 of the *Auditor General Act 2006* was not required in relation to the Minister's decision not to provide the information to Parliament. This is because the scope of works and business cases requested in Question 2(f) did not exist at the time. Therefore, there could be no refusal to provide them.

Appendix 1: Full response to Legislative Assembly Question on Notice 4833

On 19 March 2019, Ms Libby Mettam MLA asked the Minister for Tourism, the Hon Paul Papalia MLA, Legislative Assembly Question on Notice 4833.

4833. Ms L. Mettam to the Minister for Tourism:

I refer to Questions on Notice No. 4367 answered on 12 February 2019 and I ask:

- (a) Will the Minister table the research conducted by BDA Marketing Planning titled People Prophets Tracker, Year ending April 2018? If not, why not;*
- (b) Will the Minister table the research undertaken by BDA Marketing Planning titled “High Value Traveller Research, October 2018”? If not, why not;*
- (c) On what date was the October 2018 research provided to the Department of Jobs, Tourism, Science and Innovation;*
- (d) How much funding has been allocated to market “Western Australia the Road Trip State” to other States and Territories in Australia; and*
- (e) Will the Minister provide a breakdown of the funding allocated to market “Western Australia the Road Trip State” to other States and Territories in Australia, including the amount of funding allocated for marketing to each State and Territory?*

Mr P. Papalia MLA replied:

- (a) [See tabled paper no 2303] for the “BDA Marketing Planning, People Prophets Tracker, Year Ending April 2018” research provided to Tourism WA. Note this research is from BDA Marketing Planning’s own survey. BDA Marketing Planning shared the results to only one question from its survey with Tourism WA.*
- (b) The release of information contained in BDA Marketing Planning’s “High Value Traveller Research, October 2018” report could undermine Tourism WA’s competitive advantage. Accordingly, I will notify the Auditor General’s office and both houses of Parliament that part (b) of this question will not be answered as per section 82 of the Financial Management Act 2006. However, Tourism WA has created summaries of the High Value Traveller target market that draw on the key learnings from the High Value Traveller research undertaken by BDA. [See tabled paper no 2303.]*
- (c) The research was provided on 31 October 2018.*
- (d) \$554,000 to market “Western Australia the Road Trip State” interstate.*
- (e) The funding can be broken down into \$380,000 for media and production, and \$174,000 for distribution partnerships. It is not possible to break the funding down by State and Territory as a large proportion of the campaign costs are Australia-wide, including national media partnerships.*

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