



# APPENDICES

## AUDIT & RISK COMMITTEE MEETING

To Be Held

Wednesday, 16<sup>th</sup> March 2022  
Commencing at 2.00pm

As an

E-Meeting  
Via Zoom

This document is available in alternative formats such as:  
~ Large Print  
~ Electronic Format [disk or emailed]  
Upon request.

## RISK ASSESSMENT TOOL

**OVERALL RISK EVENT:** 2021 Compliance Audit Return - CAR

**RISK THEME PROFILE:**

3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)

4 - Document Management Processes

**RISK ASSESSMENT CONTEXT:** Operational

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
<b>HEALTH</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>FINANCIAL IMPACT</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>SERVICE INTERRUPTION</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>LEGAL AND COMPLIANCE</b>	Non compliance would result in imposed penalties.	Major (4)	Rare (1)	Low (1 - 4)	Not required. Risk acceptable with adequate controls, managed by routine procedures and subject to annual monitoring.	Not required.	Not required.	Not required.
<b>REPUTATIONAL</b>	High impact to Shire reputation if not carried out.	Major (4)	Rare (1)	Low (1 - 4)	Not required. Risk acceptable with adequate controls, managed by routine procedures and subject to annual monitoring.	Not required.	Not required.	Not required.
<b>ENVIRONMENT</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

**(Appendix AAR:8.1)**

## RISK ASSESSMENT TOOL

**OVERALL RISK EVENT:** 2022 Financial Management Systems Review

**RISK THEME PROFILE:**

3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)

**RISK ASSESSMENT CONTEXT:** Strategic

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
<b>HEALTH</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>FINANCIAL IMPACT</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>SERVICE INTERRUPTION</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>LEGAL AND COMPLIANCE</b>	Failure to fulfil obligations pursuant to the Local Government (Financial Management) Regulations 1996, Regulation 5.	Moderate (3)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
<b>REPUTATIONAL</b>	Council's reputation could be seen in a negative light for not adhering to its requirement to fulfil duties and functions that are prescribed in legislation.	Moderate (3)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
<b>ENVIRONMENT</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

**(Appendix AAR:8.2)**

## RISK ASSESSMENT TOOL

**OVERALL RISK EVENT:** Biannual Compliance Task Report

**RISK THEME PROFILE:**

3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)

**RISK ASSESSMENT CONTEXT:** Strategic

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
<b>HEALTH</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>FINANCIAL IMPACT</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>SERVICE INTERRUPTION</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>LEGAL AND COMPLIANCE</b>	Failure to fulfil compliance obligations pursuant to the Local Government (Audit) Regulations 1996, Regulation 17.	Moderate (3)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
<b>REPUTATIONAL</b>	Council's reputation could be seen in a negative light for not adhering to its requirement to fulfil duties and functions that are prescribed in legislation.	Moderate (3)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
<b>ENVIRONMENT</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

**(Appendix AAR:8.3)**

2021

# JLT Public Sector Risk Report

JLT Public Sector is your trusted expert in the design and delivery of risk solutions for governments and their communities.

Our solutions are built on knowledge and expertise across advice, protection, claims, risk and insurance service areas and our clients are our number one priority.

Our experience in the sector and in product innovation create risk solutions for stronger local, state and federal governments and more resilient communities for the future.

### Acknowledgement of Country

In the spirit of reconciliation, JLT Public Sector acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

# NOTE FROM GARY OKELY

The past two years have presented many different challenges to every community – locally, nationally and globally. These challenges have presented governments at every level with the difficult task of having to find more complex and demanding solutions to ensure that they continue to support their communities.

In developing these solutions, councils have shown a great understanding of their risk profile and also the need to continue finding new risk mitigation programs to deliver increased resilience and prosperity for their communities. Australia faced a significant period of disasters through 2019-20 when Queensland, New South Wales, Victoria, Tasmania and South Australia were hit hard through a catastrophic bushfire season. Just as recovery was in sight, the world has had to face a 1 in 100 year pandemic event which our communities are still moving through. These impacts are seen in the responses provided within this fourth edition of the JLT Public Sector Risk Report.

This report has utilised 237 individual responses from senior local government executives throughout Australia to showcase the most significant risks they currently face. The report draws on your insights and provides our commentary with observations related to these risks.

Our thanks go to LG Professionals Australia for partnering with JLT Public Sector to support the collection of data for this report. We are very grateful to all the CEOs and General Managers who participated in this year’s survey, your contributions make the 2021 Risk Report a valuable resource.



Gary Okely  
Head of Public Sector, Pacific

A handwritten signature in black ink, appearing to read 'Gary Okely', written in a cursive style.

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# Contents





# TOP RISKS IDENTIFIED BY LOCAL GOVERNMENT



# EXECUTIVE SUMMARY

2020 and 2021 were unprecedented years for catastrophic events nationally and globally and in one way or another, the impacts were felt by every council across the nation. Pandemics, bushfires, storms, floods, cyclones and cyber-attacks continued to impact Australia with many councils being affected by multiple events.

JLT's commitment to support all councils as your needs evolve is unwavering and we are continuing to find ways to innovate so that our services and solutions meet your evolving needs.

This year's report shows interconnection between the risks. Participants in the 2021 Risk Survey demonstrated through their responses the impact of multiple risks occurring concurrently, such as disasters and catastrophes impacting financial sustainability, infrastructure and assets.

Councils have undoubtedly faced uncertainty during the pandemic with revenue challenges, community support packages, and considerations on how to continue delivering services during long-term lockdowns which presented significant challenges. However, councils were also able to play a key role in supporting economic stimulus with increased infrastructure funding being available from both federal and state governments.

While the resilience of councils was tested due to the pandemic and recent events, the introduction of more mobile and remote workforces and the significant emergence of cyber-attacks across 2021 has further enhanced issues for councils to consider. The **Australian Cyber Security Centre's Annual Cyber Threat Report\*** shows the second highest number of cyber security incidents reported in 2020/21 were across state, territory and local governments. Cyber security has emerged to become a significant strategic risk for all councils and can no longer be left in the domain of the IT department. Council CEOs and GMs have recognised this and identified Cyber as the second highest risk in the latest risk rankings.

Though Australia has a long history of natural hazard events impacting on our communities, the 2020/21 bushfires were of an unprecedented scale and when combined with other major disaster events, impacted nationally at a far greater level than has been experienced in modern history. The **Intergovernmental Panel on Climate Change's report** on Global Warming in August 2021 identified the potential of the increase in climate variations over the next 20 years and significant impact this will have on the environment.

The 2021 Risk Report demonstrates that the events over the past two years have drawn councils to identify and acknowledge interconnected risks of importance. An example of this is within the cyber security ranking. Similarly, climate change and/or adaption has also moved up the rankings as you have identified the interconnectivity of disasters and catastrophic events and their impact on the management of damaged and ageing property, assets and infrastructure. Looking for governments to consider "betterment" when rebuilding infrastructure impacted by a disaster has become a key discussion item.

Councils have also acknowledged that managing their role during significant events introduces a significant reputational risk to them so the importance of business continuity planning at both an organisational and community level is becoming increasingly important.

The information provided by council CEOs and General Managers that enables us to prepare this report for Local Government has become an important tool to guide discussions within the sector and when added to our data insights, enables us to evolve the support and response that we can provide to you.

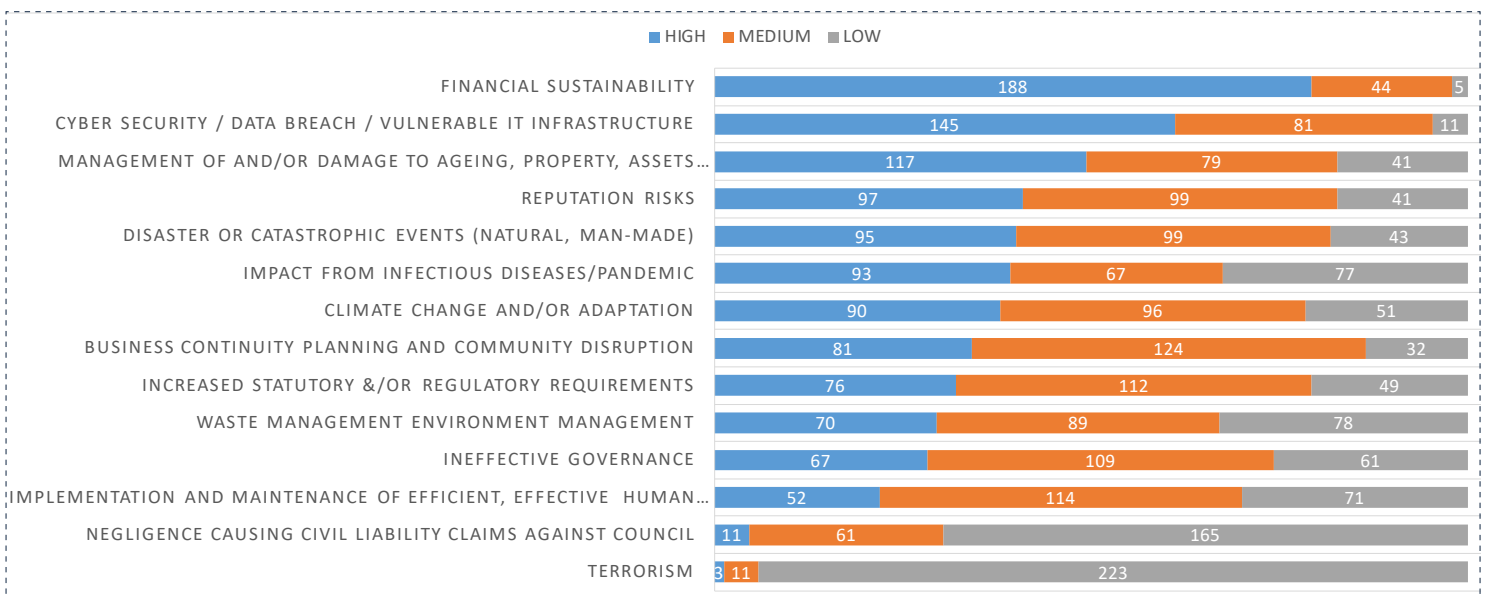
	2018	2019	2020	2021
1	Financial Sustainability	Financial Sustainability	Financial Sustainability	Financial Sustainability
2	Theft, fraud and/or crime	Cyber Security	Assets & Infrastructure	Cyber Security
3	Reputation	Reputation	Disaster or Catastrophic Events	Assets & Infrastructure
4	Statutory & Regulatory Requirements	Natural Catastrophes	Cyber Security	Disaster or Catastrophic Events
5	Environmental Management	Climate Change / Adaptation	Reputation	Reputation
6	Assets & Infrastructure	Assets & Infrastructure	Business Continuity	Business Continuity
7	Natural Catastrophes	Statutory & Regulatory Requirements	Waste Management	Climate Change / Adaptation
8	Cyber Security	Ineffective governance	Statutory & Regulatory Requirements	Impact of Pandemic
9	Business Continuity	Business Continuity	Climate Change / Adaptation	Statutory & Regulatory Requirements
10	Ineffective Governance	HR/WHS Management	HR/WHS Management	Ineffective governance
11	HR/WHS Management	Environmental Management	Ineffective Governance	Waste Management
12	Errors, omissions or civil liability exposure	Errors, omissions or civil liability exposure	Theft, fraud and crime threats (including social media)	HR/WHS Management
13		Theft, fraud and/or crime	Errors, omissions or civil liability exposure	Civil Liability Claims
14		Terrorism	Terrorism	Terrorism

# 2021 OVERVIEW

The 2021 JLT Public Sector Risk Report incorporates the feedback of CEOs and General Managers from 237 councils nationally. Responses measured the key risks they viewed as potential impacts on councils and were reviewed by subject matter experts against current events and insights.

The 2021 JLT Public Sector Risk Report details the key local government risks and prioritises them based upon specialised local government experience and knowledge. This report has captured strategic input from executives right across the local government sector during 2021 as well as gives some insights into what has changed compared to the historic information provided by councils in earlier editions. The report aims to build awareness of risks that support councils' long-term planning and consideration of future events. We hope that this report will challenge some thoughts as well as provide industry insights and comments from our subject matter experts.

## The ranking of risk on the 14 risks



The significant events that occurred across 2019, 2020 and 2021 have been influential and reflect the information received from council CEOs and GMs regarding the risks they face. This melting pot of events has brought into focus the interconnection of risks that impact on council financial stability, business interruption and the impact of both ageing and other infrastructure. The addition of fast emerging threats and risks from cyber actors is also impacting on the delivery of services to the community.

This report showcases a number of areas where a domino effect can occur after a significant event happens and connects a number of associated risks.

“The significance of the pandemic, bushfires, storms and floods over the past two years demonstrate how the interconnectivity of events can impact on the financial sustainability pressures being faced by local government.

Gary Okely

# 1. FINANCIAL SUSTAINABILITY

Financial sustainability has again been confirmed as the number one risk to the Local Government sector in 2021. A key contributing factor is councils’ limited ability to increase revenue to deliver operational requirements in line with community expectations. Influencing factors are council rate revenue growing at an insufficient rate to cover increased operational costs, particularly in well-established local government areas where there is limited new housing development. This has been further exacerbated since the onset of the COVID-19 pandemic where there has been a community and broader business expectation of council rate relief. Inadequate funding from both state and federal governments has also been cited as a key risk, with specific concern around the ongoing maintenance of roads, footpaths and critical infrastructure.

Local government revenue is primarily raised through rates and services, with other funding being provided through other avenues such as grants. It is evident across much of the country that responsibility for maintenance of critical infrastructure and key assets has shifted over time from state governments to councils, with there being insufficient access to the funding necessary to maintain and replenish critical assets and infrastructure in line with community expectations. As an example, many local government areas have jetties and wharves which are considered a critical asset for both commercial and tourism purposes. The infrastructure is extremely expensive to maintain and repair when damaged.

It is critical that councils develop and maintain dynamic asset management plans that provide both a short and longer-term perspective on the critical asset and infrastructure maintenance and replenishment requirements to enable a strategic approach to investment and the accessing of the grant funding available through the various state and federal channels. It is also important that cyclical asset valuations are maintained to ensure that critical assets are valued accurately and that consideration is given to whether market or replacement value is the appropriate approach for example, if a very old council-owned building were destroyed, would you restore the building to its original state or would you choose to replace it with a more modern building?

The Queensland Government Audit of Councils in 2019/20 noted: “More than half of the councils continue to spend more delivering services to their community than they receive in revenue from rates, fees and charges, and grants.”\* In Victoria and New South Wales, councils have to work with rate capping, restricting the amount of revenue they can achieve to deliver services each year.

“Dealing concurrently in recent years with a pandemic and other major disasters like bushfires and floods, has placed increased financial pressure on many councils creating a challenge in balancing community expectations and attainable finances,” said Tony Gray, General Manager of JLT Public Sector in South Australia. Councils with diversified operations who obtain significant revenues from tourism, parking and the likes have suffered while also managing increased costs from hard lockdowns and other restrictions arising from the pandemic.

The pandemic impacted councils beyond the element of illness and lockdown. Regional areas of Australia benefited from a sea/tree change from city dwellers and, though a welcomed influx, this has heightened the need for services and infrastructure to be in place to support a growing population.

## THE SURVEY TOLD US

54%

of respondents state insufficient rate revenue to deliver services is a key driver of this risk.

19%

state there are inadequate government funding programs and grants for local government

“More than half of the councils continue to spend more delivering services to their community than they receive in revenue from rates, fees and charges, and grants\*”

\*Local government entities: 2018–19 results of financial audits Report 13: 2019–20

## 2. CYBER SECURITY

The reliance on technology continues to rapidly expand among every part of council operations and this has escalated even faster during the COVID-19 pandemic. The Internet of Things, cloud-based computing systems, applications and devices now punctuate nearly every aspect of council business which leads to increased risks of frequent and severe cyber attacks.

Temple University in Philadelphia recently noted in its *Cybersecurity in Application, Research & Education Laboratory* that ransomware attacks in the US were increasing, specifically on critical infrastructure. Where organisations have not been prepared, cyber criminals have been able to affect organisations through ceasing business operations for periods of time<sup>1</sup>

With an increase in disasters and catastrophes, along with the pandemic, cyber attacks are on the rise and infiltrating organisations of all sizes, including governments, leveraging the circumstances.

While awareness of cyber risks has definitely increased, many councils continue to identify gaps within their cyber security and risk mitigation programs which can leave them vulnerable if and when an attack occurs. These concerns mirror those of CEOs and GMs within Australian local government who rated their IT infrastructure or provider being unable to adequately and proactively manage their cyber security response in the event of a potential cyber attack. Further, participants noted they were not confident in the reliability and integrity of their IT infrastructure.

On 6 August 2020, the Australian Government released Australia’s Cyber Security Strategy<sup>2</sup> which commits an investment of \$1.67 billion over 10 years to achieve a vision. This includes:

- Protecting and actively defending the critical infrastructure that Australians rely on, including cyber security obligations for owners and operators;
- New ways to investigate and shut down cyber-crime;
- Stronger defences for government networks and data.

This strategy will involve an increased focus for all councils to support their operations and their communities.

Figure 1 from the 2021 Australian Cyber Security Centre’s Annual Cyber Threat Report\*\* shows **the second highest number of cyber security incidents reported in 2020/21 were across state, territory and local governments**. This demonstrates this risk is important across all levels of government.

As well as impacting on a council’s ability to operate and deliver services, cyber-attacks can significantly impact upon council reputation and create potential civil liability claims.

### TOP THREE CONCERNS FOR CYBER SECURITY

37%

Ability to proactively manage cyber security

22%

Awareness of potential for and response to a cyber attack

19%

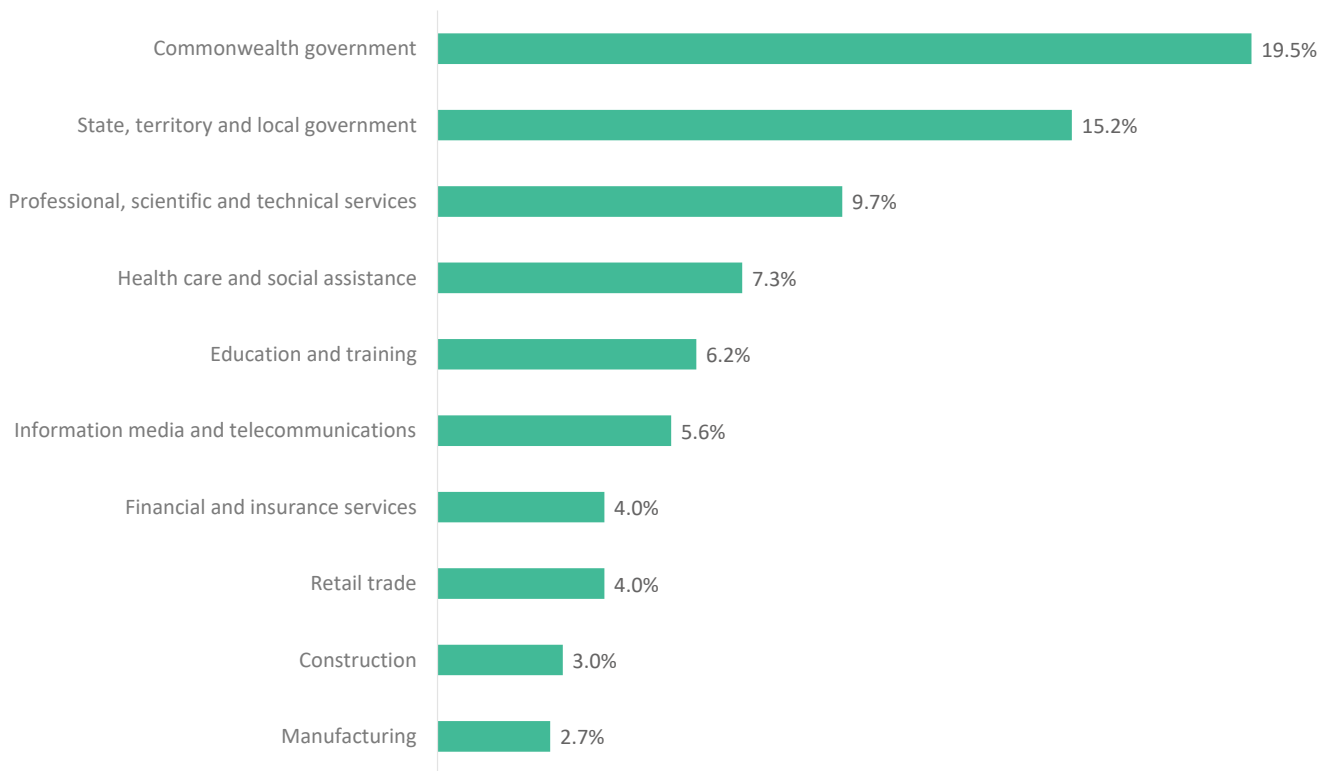
Reliability and integrity of critical IT



<sup>1</sup> Critical Infrastructure Ransomware Attacks, Temple University

<sup>\*\*</sup> Australian Government, ACSC Annual Cyber Threat Report, Australian Signals Directorate et al,

Figure 1: Cyber Security incidents by the top ten reporting sectors – 2020-21<sup>2</sup>



<sup>2</sup> Australia's Cyber Security Strategy 2020, Department of Home Affairs, Cyber Security



# 3. ASSETS & INFRASTRUCTURE

Estimates indicate that the value of the community infrastructure portfolio, managed by councils which has built up over generations – is today valued at more than \$345 billion<sup>3</sup>. It is also estimated councils require an additional \$30 billion to ensure their assets remain productive and safe. The links between the management of such a significant asset base and financial sustainability of local government is clear and integrated.

There is also significant pressures on local government to acquire assets through a range of sources too. From integrated planning, donations, land development, to infrastructure construction grants to meet anticipated service levels into the future. Rarely do these transfers involve significant long-term considerations like the whole-of-life cost implications, the underlying resilience suitability of the asset or potential for future legal liabilities. These issues can ultimately place even further stress on the capacity of councils to manage assets into the future.

The survey responses highlighted concerns with the capacity of councils to finance improved assets and infrastructure resilience prior to disaster events as well the exposure for councils to fund repairs for replacement or betterment to minimise future events. This is particularly so for assets that are not traditionally protect or insured u through traditional means, such as critical water and wastewater networks, stormwater infrastructure, roads and footpath networks. The relatively complex and resource intensive process in accessing financial support through the Natural Disaster Relief and Recovery Arrangements often result in councils and communities facing immense difficulties in repairing and replacing critical assets and infrastructure capable of withstanding future events

**Compounding this can be the transfer of responsibility for assets to councils from other levels of government, generally without the requisite level of funding needed to support ongoing management considerations.**

The recent frequency and severity of natural disasters across vast areas of Australia reinforces the significance of this risk being in the top five.

## 74%

Concerned about their financial capacity to manage assets, infrastructure.

## 57%

Have significant concerns related to natural disasters or catastrophe damaging critical infrastructure.

## 49%

Placed ageing property, assets and infrastructure as a high risk.



<sup>3</sup> Australian Local Government, 2018, National State of the Assets 2018 Roads & Community Infrastructure Report

# 4. DISASTER OR CATASTROPHIC EVENTS

The devastating bushfires of 2019/20 which impacted Australia, followed by floods in 2020/21 in parts of the country have had significant impact on local governments and their communities – and these impacts have been compounded by the unanticipated onset of a global pandemic.

The majority of respondents in the Risk Survey indicated concern about unpredictability of disaster events. 2020 was dominated by COVID-19. This following two unpredicted events is a perfect example of a number of events colliding, creating an unpredictable disaster. The recent Mansfield Earthquake in Victoria provides a clear and salient example for local government that unpredictable events will continue.

This highlights the importance of effective, strategic and risk management planning that informs the investment in mitigation decisions.

The increasing frequency, scale of and intensity of disaster events combined with the cascading effect of chronic, recurrent and local stressors has amplified the vulnerability of local communities. The Bushfires Royal Commission (October 2020) has conclusively identified capacity and capability as critical factors to mitigate the risk impact on vulnerable communities. The 2021 JLT Risk Survey shows councils are becoming increasingly occupied with extreme disaster events exacerbated by climate change.

Disaster risk is not just about tangible physical or economic impacts; they also bring interconnecting risks that have major consequences for councils and their communities.

When a disaster event looms, a council needs confidence that its capacity and capability, built around business continuity, emergency management, response and recovery plans are capable of:

- Limiting immediate impacts on the safety of life and property;
- Facilitating rapid and effective physical, social, economic and environmental recovery; and
- Mitigating domino effects arising from interconnecting and cascading reactions which impact on risk.

The increase of random events nationally highlights the impact on the interconnection of risks, as indicated in this year’s survey results. The effectiveness of implementing business interruption plans, the timeliness to attract financial support, the disruption on chain of supply and impact on infrastructure all have a domino effect on the efficiency of the community’s ability to recover.

Understanding a council’s risk profile, identifying vulnerabilities and recognising capacity and capability are essential elements for developing plans and strategies capable of mitigating the impact of disaster risk while building resilience.

**89%**

Reported major concern with bushfires, floods, cyclones and terrorism events occurring

**69%**

Reported the unpredictability, uncertainty and severity of extreme events are an issue within this risk

**46**

Australian disasters in 2020\*

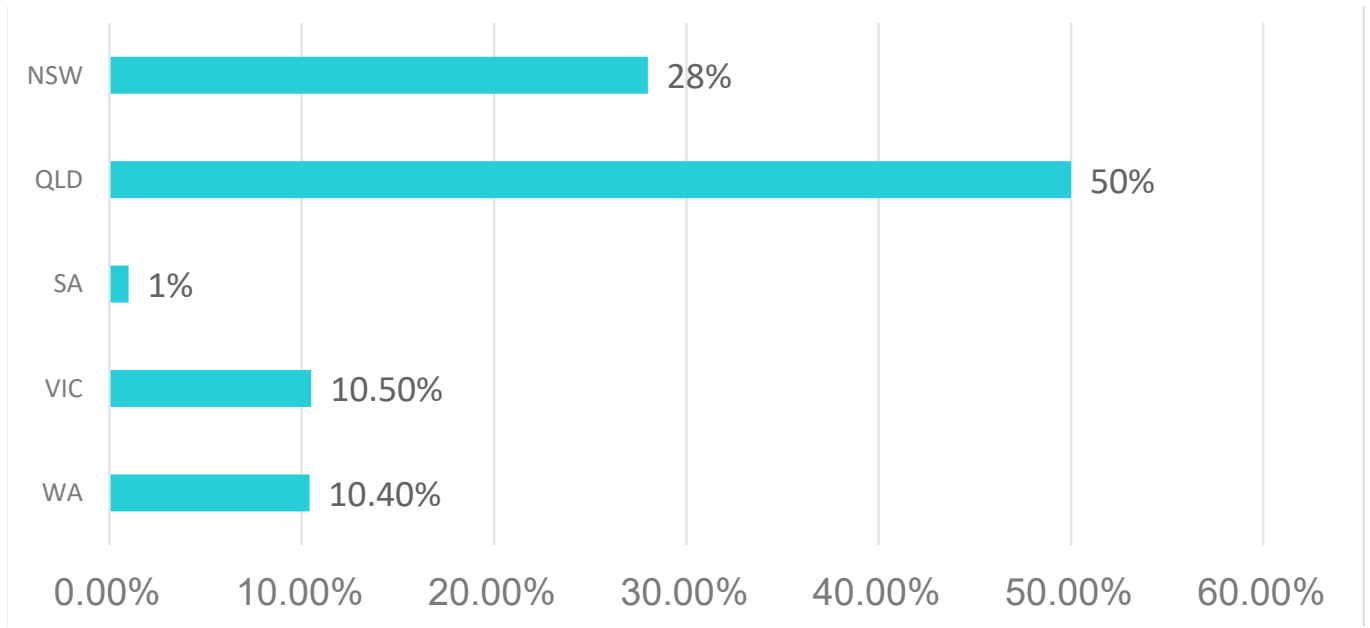
**\$38B**

Cost of Natural Disasters to the Australian Economy annually\*\*

\*Australian Disasters, Disaster Assist

\*\*Deloitte - Special report: Update to the economic costs of natural disasters in Australia 2021

Figure 2: Cost of Losses for Local Government per state - 2018/19 to 2019/20



In 2018/19 to 2019/20, local government nationally had losses due to natural disasters equating to \$47,348,362.



# 5. REPUTATION

The loss of community trust in a council is a serious concern for local government, with 33% of CEOs and GMs selecting this as their leading concern. With the bushfire events of the summer of 2019/20, the recent impact of COVID-19, scattered floods and ever escalating cyber-attacks, councils are required to manage increasing high pressure situations in addition to the day-to-day servicing of their communities.

There are growing expectations on elected officials representing our diverse communities across Australia. Balancing these undertakings with the fiscal responsibility of delivering best value administrative and community support is not always possible. The failure to meet public demands and expectations, then, results in a loss of trust in both council and its elected members.

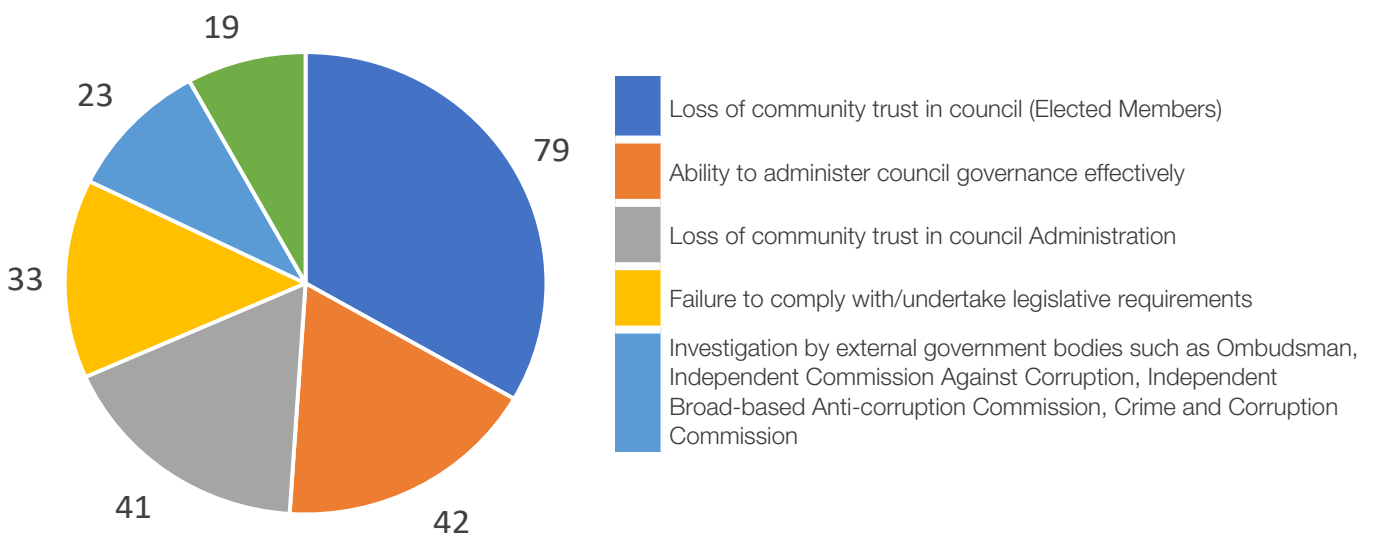
The ability of a council to administer governance effectively must be managed in equal measure with the need to maintain the community’s trust. This was confirmed with 17% of Risk Survey respondents identifying these as equal issues.

The increasing number of Councillors and Officers claims over the past five years represents an additional indicator of reputational decline. These claims are escalating in both occurrence and quantum with the costs of defending them amplified due to their often sensitive and emotive nature. The common causes reported continue to arise from elected member conflicts, increased regulatory activity and employment disputes.

As more and more responsibility is being passed to councils from state and federal governments, failure to comply is an increasing concern in the sector. This, along with the issues surrounding elected member conflicts of interest and disputes, links with CEOs and GMs concerns they may be exposed to additional investigations by external government bodies. This also includes the ability to source the resources to deliver transferred responsibilities and the funding to implement.

Councils also have responsibilities for implementing COVID-19 restrictions on their operations that are developed by state governments, such as the management of outdoor dining, closure and reopening of public facilities such as skate parks, swimming pools, libraries and the use of the very wide range of council facilities. Local government has had to quickly adapt to constantly changing state directions which can also create strained relationships between the community and their respective local governments.

Figure 3: Reasons behind the risk of Reputation as a Local Government



# 6. BUSINESS CONTINUITY

Business interruption and community disruption have become front-and-centre issues for local governments as disasters, catastrophic events and the unexpected continue to significantly impact on councils and their communities across Australia.

Safe, sustainable, resilient and functional communities depend on well managed and maintained local government infrastructure, assets, functions and services with suitable plans in place.

Mitigating the impacts that severe storms, flooding, fires, communication outages, industrial accidents and other disruptive events is certainly a challenge. It also cannot be overestimated how important it is for critical business activities and services to either continue operating through these and to recover as speedily as possible thereafter.

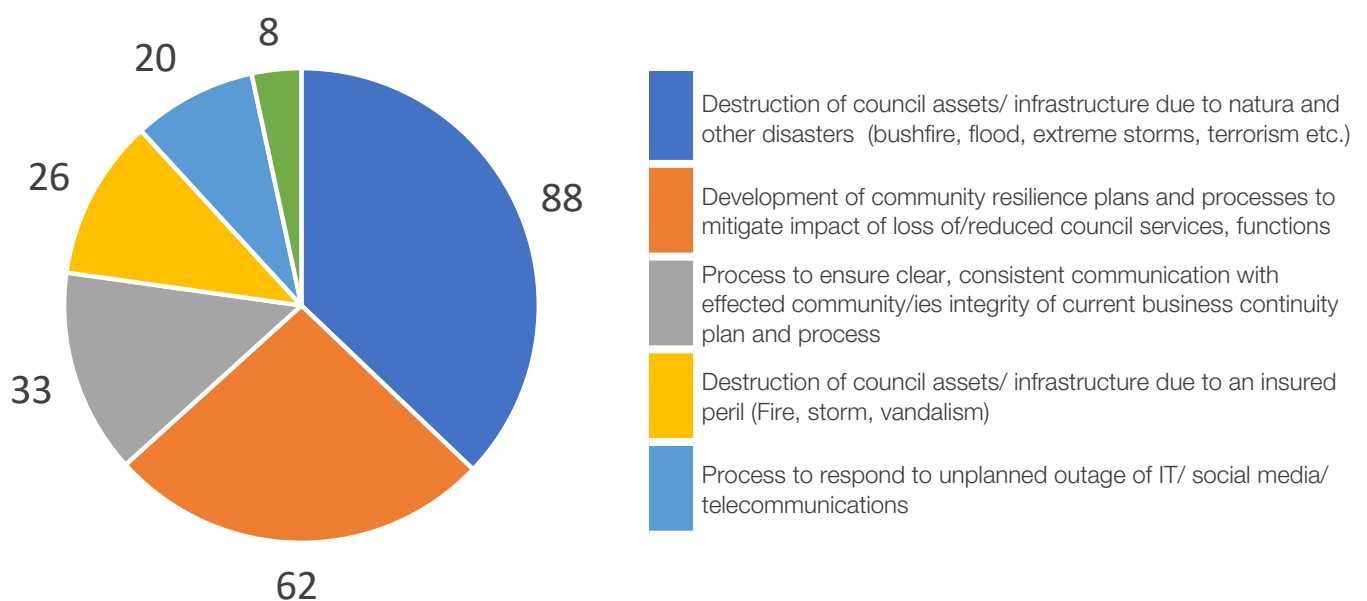
“This is why business continuity plans have such a critical role to play in guiding councils at every point when responding to ‘disaster’ events – small or large – and getting back on track,” says Nick Rossman, Senior Risk Consultant at JLT Public Sector. Robust business continuity plans help buffer impacts and position councils to achieve strategic and operational objectives, ultimately contributing to overall community resilience.

Respondents noted that business continuity processes rely on clear, consistent communication with effected communities and stakeholders, and that the effectiveness of plans will be compromised if inadequate or ineffective communication strategies and processes are not in place.

Respondents also noted that the connected concerns of destruction or damage to both insured and uninsured assets and infrastructure as a result of these events.

COVID-19 has demonstrated clearly the importance of planning – even for the least likely of scenarios. Planning – and the role of business continuity plans – ensures agility is integrated into business processes so councils are able to respond to dynamic, unanticipated and protracted situations.

Figure 4: Ranking of reasons behind the business continuity risk



# 7. CLIMATE CHANGE OR ADAPTATION

Councils and their communities are already experiencing the impacts of a changing climate and, perhaps unsurprisingly, this was identified by CEOs and GMs as an issue of increasing significance in this year’s survey.

The leading concern surrounding this risk to council CEOs/GMs is the implications of predicted climate change and the impact on business and its functions, with concerns focussed on the development of strategic policies related to climate change and adapting to it.

Climate change is one of the key sources and drivers of risk and there is growing momentum surrounding the role global heating plays in amplifying extreme weather and climatic events.

The Royal Commission into National Natural Disaster Arrangements conducted after the 2019/20 Black Summer bushfires found that climate change has already increased the frequency and intensity of extreme weather and climate systems. It is anticipated that activities such as the reduction of carbon emissions will be a focus for all levels of government.

The result of climate change account for events including flooding, drought, wind, coastal hazards such as sea level rise and erosion as well as extreme heatwaves and extreme meteorological events such as cyclones, convective storms and high-fire index weather.

In the **2021 Allianz-Risk Barometer report**, Michael Bruch, Global Head of Liability Risk Consulting/ESG at AGSC was quoted: *“2020 was the year of the pandemic; in 2021, climate change will be back on the board agenda as a priority. Climate change will require many businesses to adjust their strategies and business models in order to move to a low-carbon world. Risk managers need to be at the forefront of that change to assess the transition risks and opportunities related to market and technology shifts, reputational issues, policy and legal changes or physical risks. They have to help identify possible scenarios or evaluate the business and financial impact driving the overall low-carbon transformation of a company, together with other stakeholders.”*<sup>5</sup>

It is paramount that councils prepare for climate change by understanding the local implications of climate-related risk and then develop and implement strategies to improve community and organisational resilience into the future.

Local governments and their communities are on the frontline when dealing with the risks and impacts of climate change. Councils need to prepare for the unavoidable impacts of climate change<sup>4</sup>



<sup>4</sup> Address the Risks of Climate Change – ALGA

<sup>5</sup> Allianz Risk Barometer, Identifying the Major Business Risks for 2021

# 8. IMPACT OF PANDEMIC

As well as being a global pandemic and national health crisis, COVID-19 has severely affected local economies and the social fabric of many communities, with immense and far-reaching implications for local government into the future.

Although the initial whole-of-government and science-based response to the pandemic minimised the scale and severity of the health impacts experienced in other countries, the potential for rapid spread from new variants was challenging.

The pandemic has caused substantial nation-wide economic impacts, with significant income and employment losses and major upheaval in key economic sectors including health, education, aviation, agriculture, transport, supply, tourism, hospitality, manufacturing and community services.

The 2020 risk survey indicates 60% of respondents had emergency response plans relevant to a “pandemic”, however only 31% had corresponding business continuity plans that identified and contemplated these risks. This, coupled with limited experience in managing a novel viral pandemic of this scale and magnitude, reduced the capacity and capability of many councils to effectively identify, understand and manage these risks.

The delayed and at times controversial vaccine rollout, an inconsistent national response and at times unclear road maps to recovery, have significant ongoing implications for local government and, in conjunction with other events impacting some councils, this may hamper efforts to build resilient communities.

While the COVID-19 pandemic ranked 8th on the 2021 scale, the ongoing and cascading impacts of this event will continue to influence local government risk management well into the future.

## THE SURVEY TOLD US

**60%**

had emergency response plans relevant to a pandemic

**31%**

of respondents had corresponding BCP addressing the risks

**31%**

of respondents had corresponding business continuity plans



## 9. STATUTORY AND REGULATORY REQUIREMENTS

The issue of rising administrative complexity and cost of continuous change with increasing and sometimes competing statutory and regulatory compliance regimes remain an ever-present challenge for councils across the country.

This has been compounded by significant increases in litigation and claims activity, including a number of high-profile investigations and proceedings against executive officers and elected representatives across all levels of government, effectively creating a feedback loop that has generated further change arising from the legislative and procedural reforms taken by the respective policy makers in response.

It is also anticipated that an increasing focus of individuals, stakeholders, interest groups and regulators on corporate governance structures and decision-making processes, related environmental, social and governance matters will ultimately result in further statutory and regulatory change and increased risk of related litigation for years to come.

However local government simply does not have access to the necessary funding and revenue-raising opportunities that are capable of adequately responding and adapting to the changing and expanding regulatory compliance environment.

This has profound implications for Financial Sustainability, and almost certainly contributes to this issue being identified by CEOs and GMs as the most significant risk for councils.

A focus on governance through integrated planning, monitoring, reporting and risk management that is founded on the principles of accountability, transparency, stakeholder and public participation, inclusivity and organisational efficiency and effectiveness seems obvious and critical, yet the costs to meet regulatory standards will simply remain out of reach for many councils.





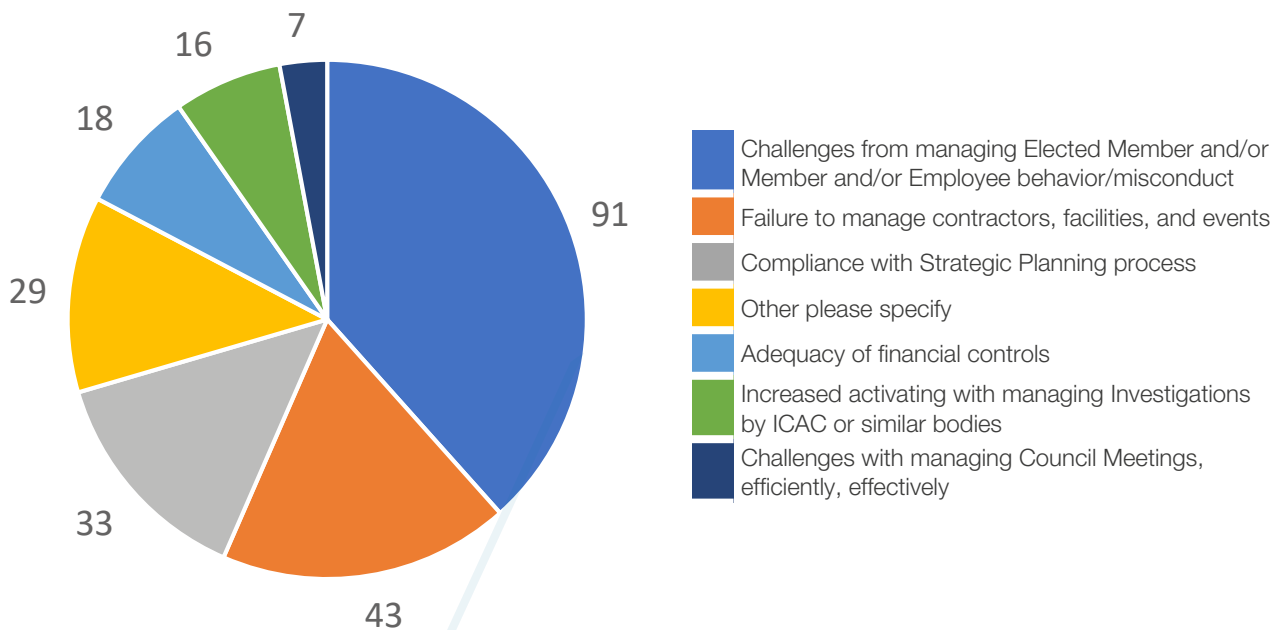
# 10. INEFFECTIVE GOVERNANCE RISK

Councils’ ability to ensure compliance with applicable governance structures is under increased pressure. Failures to apply and monitor these structures has been an element in an escalation of claims in Public Liability, Councillors & Officers and Fidelity/Crime covers. Risk Survey participants noted that the challenges of managing elected member and, or employee behaviour was the leading concern. Issues arising from contract agreements and control management as well as the failure or inability to adequately manage contractors, facilities and events were also raised as a concern for councils.

Responses relating to ‘other’ concerns include referencing recent councils being placed in administration. Primarily this has resulted from irreconcilable differences between councillors, issues relating to management of financial spending/or controls, and inability to establish and implement strategic objectives.

The increasing prevalence, required resources and attention to conduct investigations and reports is also specifically noted as an ongoing issue.

Figure 5: Ineffective Governance Responses



# 11. WASTE MANAGEMENT

Waste services provided through local governments span kerbside collections, public waste management facilities of landfills and/or transfer stations and recycling being delivered either directly by councils or under contractual arrangements.

The cost and ability to effectively manage waste relevant to respective council areas was the leading reason for this ranking. The financial sustainability as well as the management of community expectations on council’s ability to manage its environmental responsibilities feature highly as reasons behind this risk.

These issues have been exacerbated by China introducing in 2018 a waste import ban and Australia enacting its own Recycling and Waste Reduction Act 2020, effectively banning exports of unprocessed domestic waste.

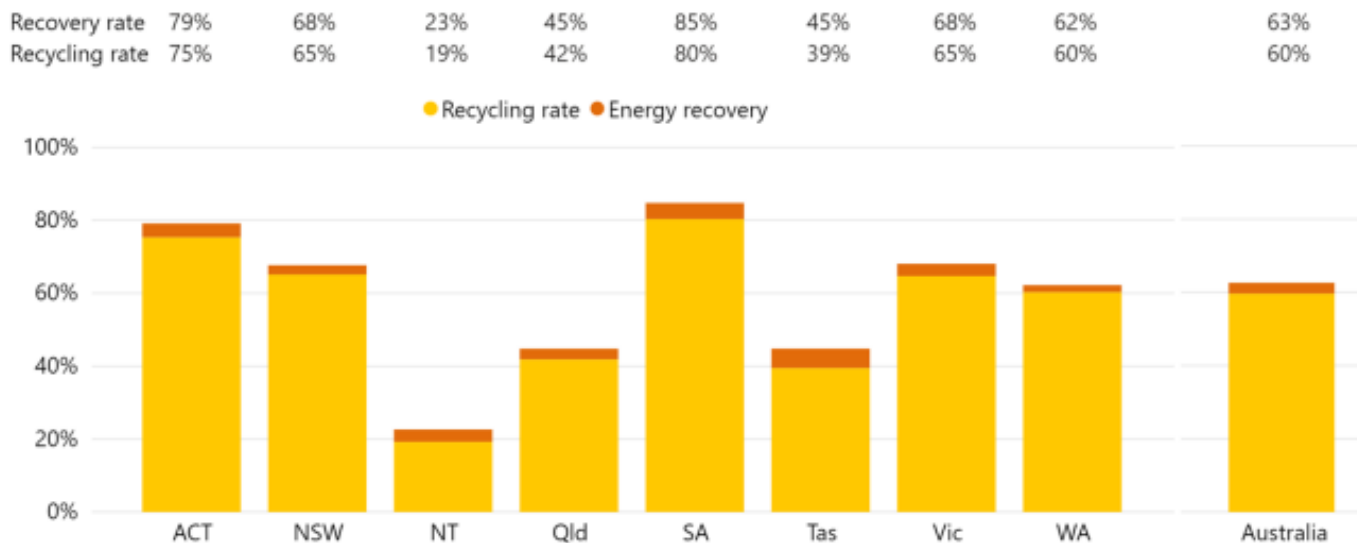
In 2018/19, the national resource recovery rate was 63%, and the recycling rate was 60%. These statistics are approximately only a 2% increase on the previous year demonstrating a slow move towards waste reform.

While we currently have limited domestic capacity to process much of the mixed plastic and paper collected through councils, the landscape is already changing. The introduction of this new law along with reduced overseas markets has forced local government and the waste industry to re think their waste strategies and invest in local infrastructure such as material recycling facilities (MRFs) to enable cost effective processing of comingled waste for the long-term sustainability of ongoing waste services and protection of the environment.

The industry is currently in a transition stage and there are various states within Australia investing in the infrastructure to cope with the increases in recovery and recycling rates. Local government entities that are now resourcing and investing in the infrastructure to manage waste moving forward are securing their ability to manage costs and deliver on community expectations.

In balancing increasing community expectations regarding waste management, councils should consider the difficulty with providing risk protection for these assets. To achieve the best protection outcomes, it is critical for councils to allow adequate time for discussions with JLT to evolve, be prepared to provide detailed risk management information and for previous claims experience to influence the costs associated with protecting these assets.

Figure 6: Resource recovery and recycling rates of core waste plus ash by jurisdiction, 2018-19\*



\* National Waste Report 2020

# 12. HR/WHS MANAGEMENT

All workplaces have a duty of care to ensure a safe workplace to protect workers from both physical and psychological harm. Local governments, by their nature, operate across an ever changing risk landscape and managing people risks understandably remains a key risk issue.

Respondents ranked the health, safety and wellbeing of their employees as the reason for this risk. The ability to support and manage its people risks requires commitment and action, both as an individual council and as the local government sector.

At the forefront is the ongoing impact COVID-19 has had on traditional workplace safety strategies which have significantly shifted gears to accommodate the changing working landscape.

This change in landscape has shifted people risk management with it extending beyond the workplace. It has highlighted the importance of health and wellbeing programs that promote healthy lifestyles and it has raised the profile of work life balance as a vital component in staff attraction and retention programs.

Councils remain faced with skills shortages, a difficult employment market, and the challenges of an ageing workforce. These were noted as factors within this risk and councils need to find structures that can attract and retain workers. Financial burdens, the political environment and increasing pressures on local governments creates resource constraints that also need to be managed effectively.

Despite the many changes and challenges, what remains clear is the moral and legal obligation to provide a safe workplace, adequate resources, the right equipment and information to support and continually engage workers. By investing in relevant and up-to-date policies and procedures that align with “best practice”, workplaces will contribute to equipping workers with the knowledge, skills and experience to do their jobs.

“Local Government has ‘a much older workforce than the Australian all-industry workforce, with 53.7% above 45 years of age in local government compared to an average of 40.6% across all-industries’<sup>7</sup>”



<sup>7</sup> Local Government Workforce and Future Skills Report Australia, 2018

# 13. CIVIL LIABILITY CLAIMS

Councils note within their response to the survey their exposures lay in understanding their risk profile and the management of their policies and processes. The potential failure to adequately undertake regulatory roles creates liability issues which can result in financial loss, property damage or injury to others.

Local government has a significant number of professional indemnity claims annually which arise from simple planning matters to complex and large property developments. While the frequency of events are lower than general liability incidents, the complexity and severity of professional indemnity losses are quite significant.

Professional indemnity claims are also more frequently litigated which is one of the reasons for the increase of costs for these types of claims. Litigation is also more likely to result in an increased timeframe of the life of a claim.

It should be noted though, councils receive a far greater number of public liability claims as compared with professional indemnity claims. These claims relate to either personal injury or property damage suffered by third parties as a result of an occurrence or incident (something unexpected) for which the local government is allegedly liable for). Typically, a council will only be liable for these types of claims if they were previously notified of a problem or hazard and they have failed to take any action within a reasonable timeframe or their response was inadequate to the problem.

Whilst for the vast majority of claims local government is not found liable, it is important mitigation measures for identified assets and infrastructure have a robust inspection and maintenance program. This is due to council's responsibility for maintaining as well as having appropriate record management systems to ensure any work performed is sufficiently recorded.

# 44%

Had the equal ranking for two concerns within this risk:

1. Understanding council's risk profile and application of the risk management policy and processes
2. Ability to undertake due diligence when administering statutory/regulatory responsibilities



# 14. TERRORISM

Respondents rated terrorism at a lower risk level. Despite the lack of attacks in Australia, the small but highly visible attacks in New Zealand demonstrates the challenges in detecting and preventing such events.

At this time, the Australian Government rates its current National Terrorism Threat Level as “Probable”<sup>8</sup>. It has stated that “credible intelligence, assessed by our security agencies, indicates that individuals or groups have the intent and capability to conduct a terrorist attack in Australia.”<sup>9</sup> Lone wolf attacks as well as Sunni Islamic groups remain the main concerns for Australia. Further, the recent events in Afghanistan raise concerns about renewed energy within terrorist networks.

Given these conditions, this issue should remain on local government risk radars. City, metropolitan and regional city councils should consider reviewing existing terrorism plans and business continuity plans.

“COVID-19 has not substantially diminished the threat of terrorism in Australia. Lockdowns have limited in-person contact, but have probably increased online exposure to violent extremists, both religiously motivated and ideologically motivated, who are seeking to connect, inspire, influence and radicalise.”<sup>9</sup>



<sup>8</sup> Australian National Security, National Terrorism Threat Advisory System

<sup>9</sup> Australian Government, Australian Securities Intelligence Organisation, Australia’s Security Environment and Outlook

# HIGHEST RISKS BY STATE

Table 1 shows Financial Sustainability and Cyber Security as the leading issues for all states/territories except the Northern Territory where Cyber was not ranked in the top five. Infrastructure and assets were ranked in the top five for all states/territories.

Due to the timing of the survey, the pandemic did not rank in the top five for all states.

**Table 1: Top 5 Compared by State**

NATIONALLY		WESTERN AUSTRALIA		TASMANIA	
	Financial Sustainability		Financial Sustainability		Financial Sustainability
	Cyber Security		Cyber Security		Cyber Security
	Assets & Infrastructure		Assets & Infrastructure		Business Continuity Planning
	Disaster/Catastrophic Events		Ineffective Governance		Impact of Pandemic
	Reputation		Climate Change/Adaption		Assets & Infrastructure
SOUTH AUSTRALIA		QUEENSLAND		NORTHERN TERRITORY	
	Financial Sustainability		Financial Sustainability		Financial Sustainability
	Cyber Security		Cyber Security		Regulatory/Statutory Requirements
	Business Continuity Planning		Assets & Infrastructure		Assets & Infrastructure
	Assets & Infrastructure		Business Continuity Planning		Waste Management
	Reputation		Reputation		Reputation
VICTORIA		NEW SOUTH WALES			
	Financial Sustainability		Financial Sustainability		
	Cyber Security		Cyber Security		
	Climate Change/Adaption		Disaster/Catastrophic Events		
	Impact of Pandemic		Assets & Infrastructure		
	Assets & Infrastructure		Reputation		

# THE KEY RISK INDICATOR REPORT METHODOLOGY

The 2021 Risk Survey was carried out in August 2021 with 237 CEOs and GMs participating. Respondents represented remote, rural, regional, metropolitan and city councils nationally. Data from the 2020 survey with 194 responses was also used within this report.

The purpose of the survey is to gain insights into CEOs and GMs of councils and how they perceive 14 key risks, ranking them from highest to lowest. Participants are also asked to provide the reasons for this risk ranking, providing further insights into the underlying concerns for each risk.

The survey investigates risks including cyber, disaster and catastrophes, infrastructure/property damage, financial stability, waste management, business continuity, reputation, governance, theft and fraud, errors and omissions, regulatory requirements, climate change, human resources/work health and safety and terrorism.

Subject matter experts across the business reviewed the results and were compared against current insights.

The outcomes from this feedback contributed to this 2021 JLT Risk Report to enable councils to consider and identify changing and emerging risks and possible approaches for the future.

## SURVEY RESPONDENTS

In 2021, 237 local governments participated in the JLT Public Sector Risk Survey. Councils from Western Australia, Queensland, South Australia, Victoria, Northern Territory, New South Wales and Tasmania responded. These councils represented city, metropolitan, regional city, regional and rural/remote communities.

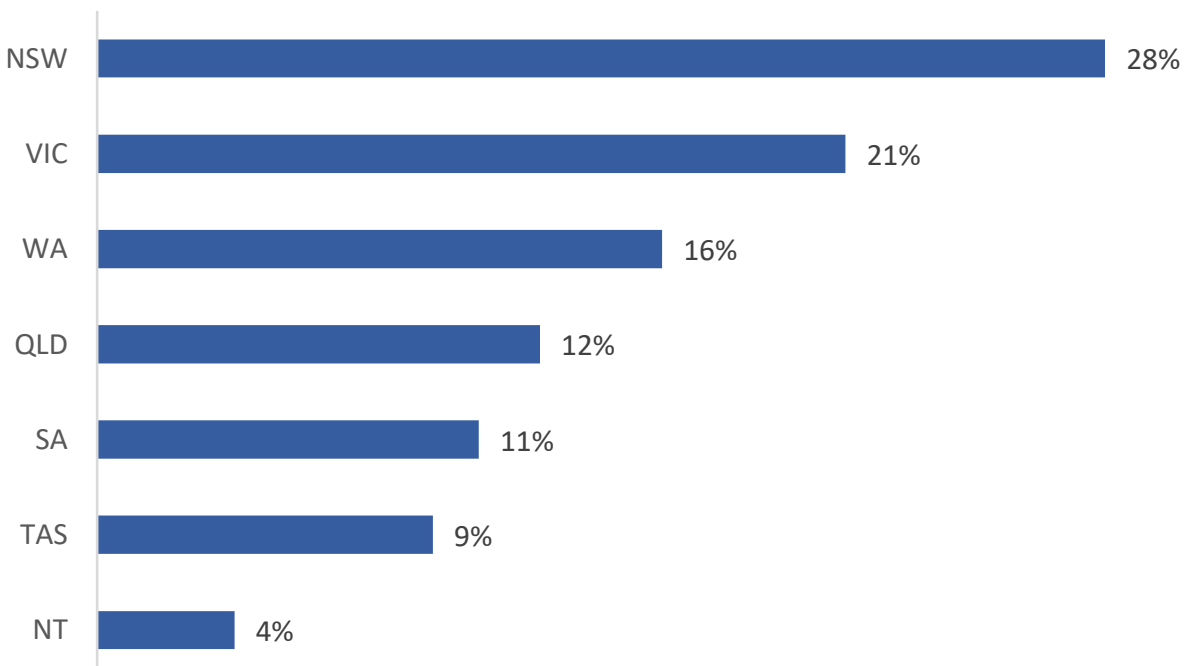
Participants were asked to rank 14 risks in order of highest to lowest and provide further insights to what within these risks were concerns.

# 237

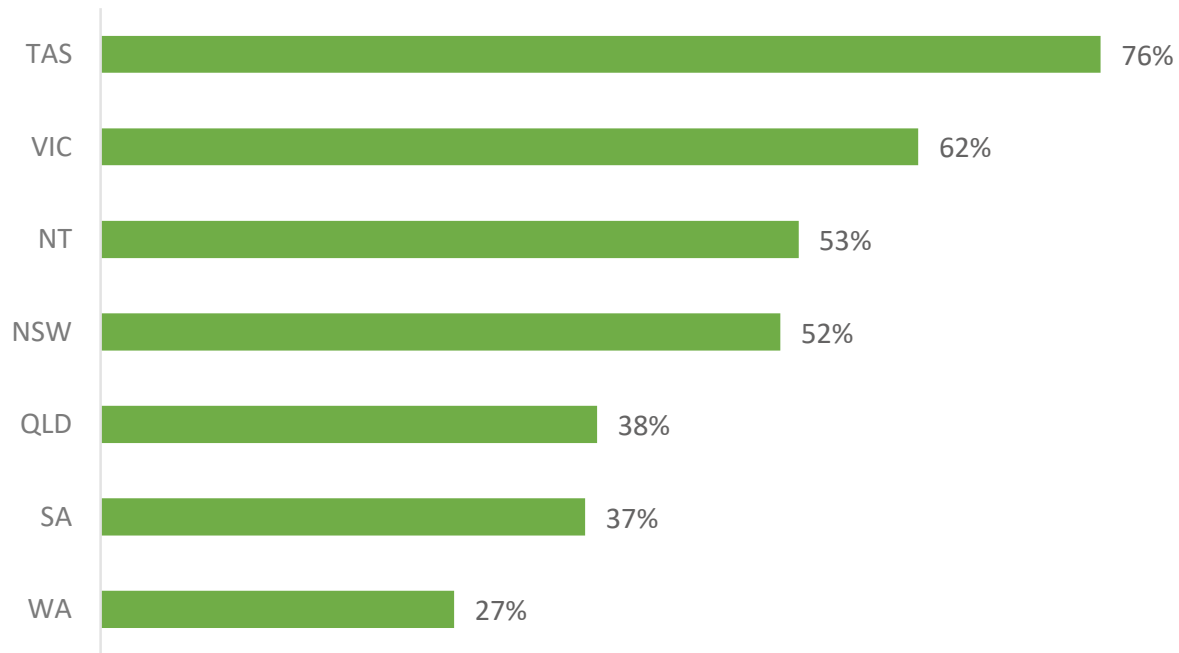
councils participated in the survey nationally

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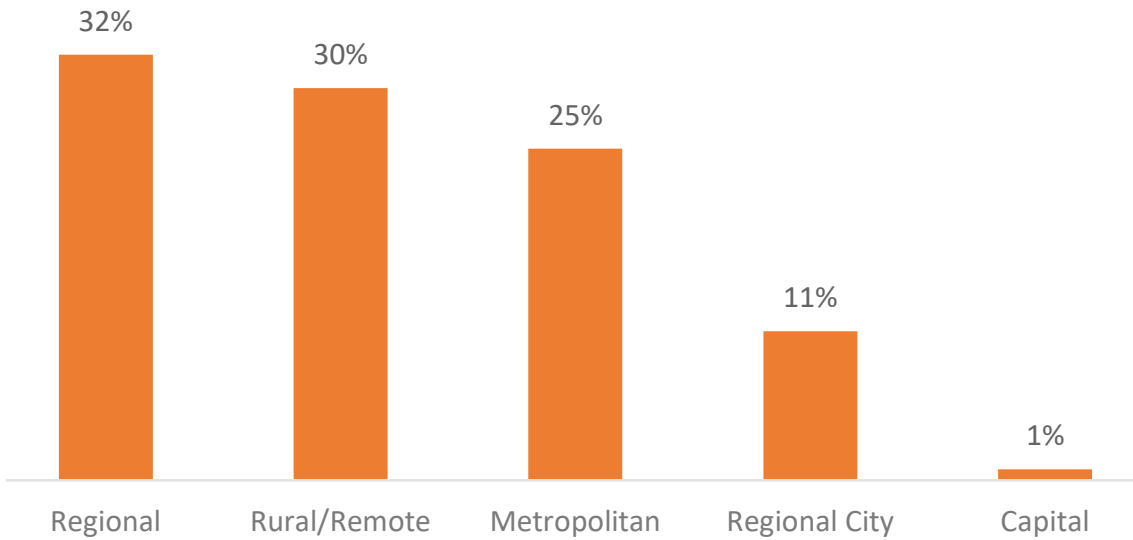
### State Representation Nationally



Percentage of Councils within each State who responded



Regions



This representation accounts for heavily populated communities through to small populations in remote Australia. Remoteness was based on the level of access to services.



# SUMMARY OF 2020

In 2020, 185 CEOs and General Managers from councils across Australia responded to the JLT Public Sector Risk Survey. Responses measured the key risks they viewed as a potential impact on councils. This survey incorporated for that year only, two extra sections surrounding emergency response and the pandemic.

You will note that Financial Stability remains as the number 1 risk, as in 2018 and 2019, yet due to the 2019/20 Bushfire season, risk factors shifted nationally driving the management of ageing infrastructure property and assets into second place. Disasters and catastrophic events moved up into third spot from 2019, yet Cyber security and reputational risk remained in the top five with Cyber moving up one from fifth place, and reputation as a local government with the community moving from third to fifth place.

2020 provided broader risk events via the 2019/20 bushfires and the pandemic. To enable data to be appropriately collected, we separated out the questions surrounding planning, preparation and impact of these two significant events to enable the risk report to be able to benchmark against prior years.

The following is the full table of risks ranked by CEOs and GMs for 2020.

## 2020 KEY RISK RANKINGS IN ORDER

- |    |   |
|----|---|
| 1  | Financial Sustainability                                |
| 2  | Assets & Infrastructure                                 |
| 3  | Disasters or catastrophic events                        |
| 4  | Cyber security  |
| 5  | Reputation as a Local Government and with the commun    |
| 6  | Business continuity                                     |
| 7  | Waste Management  |
| 8  | Statutory & Regulatory Requirements                     |
| 9  | Climate change/adaptation                               |
| 10 | HR/WHS Management                                       |
| 11 | Ineffective governance                                  |
| 12 | Theft, fraud and crime threats (including social media) |
| 13 | Civil Liability Claims                                  |
| 14 | Terrorism   |

# GLOSSARY

Financial Sustainability	Financial sustainability and stability of a council
Cyber Security	Encompasses cyber security, data breaches and vulnerable IT infrastructure
Assets & Infrastructure	Incorporates the management of and/or damage to ageing infrastructure, property & assets
Disaster or Catastrophic Events	Disasters or catastrophic events
Reputation	Reputation as a local government and with the community
Business Continuity	Business continuity planning and community disruption
Impact of Pandemic	Impact from infectious diseases/pandemic
Waste Management	Waste management/environment management
HR/WHS Management	Implementation and maintenance and efficient, effective Human Resources and WHS management systems
Civil Liability Claims	Negligence causing civil liability claims against council



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## RISK ASSESSMENT TOOL

**OVERALL RISK EVENT:** 2021 JLT Public Sector Risk Report

**RISK THEME PROFILE:**

All 15 Risk Profile Themes

**RISK ASSESSMENT CONTEXT:** Strategic

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
<b>HEALTH</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>FINANCIAL IMPACT</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>SERVICE INTERRUPTION</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>LEGAL AND COMPLIANCE</b>	Not considering the local government industry risks noted in the JLT report could have implications towards managing risk in accordance with Regulation 17 of the <i>Local Government (Audit) Regulations 1996</i>	Moderate (3)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
<b>REPUTATIONAL</b>	Council's reputation could be seen in a negative light for not considering industry reported risk and the potential impact this could have to long-term planning.	Moderate (3)	Rare (1)	Low (1 - 4)	Not required.	Not required.	Not required.	Not required.
<b>ENVIRONMENT</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

Appendix AAR: 8.4B)



# Audit Practice Statement

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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.

National Relay Service TTY: 133 677  
(to assist people with hearing and voice impairment).

On request, we can deliver this report in an alternative format.

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February 2022 (Previous version July 2018)

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# VISION

*Supporting accountability and continuous improvement in the public sector through an informed Parliament and community.*



## Introduction

We have issued this *Audit Practice Statement* as required by section 24(2)(b) of the *Auditor General Act 2006* (AG Act). This section requires the Auditor General to inform Parliament of any major change in the extent or character of the audit function. With the establishment of our forensic audit function and *Strategic Plan 2021-2025*, it is timely to provide an updated statement.

This statement offers a concise summary of:

- why we audit
- who we audit
- how we audit.

It also includes information on our ethical standards and commitment to audit quality, previously shared in our Transparency Report.<sup>1</sup>

We refer to our audit clients as public sector entities (entities) which includes:

- State government entities (State entities)
- local government entities (LG entities).

For more information about our Office and our functions, please refer to our website:

[www.audit.wa.gov.au](http://www.audit.wa.gov.au).

## Why we audit

In the Westminster system of parliamentary democracy, all authority for government activity stems from Parliament. Entities are accountable to Parliament for the use of public resources and the powers and responsibilities it confers on them.

To help it to oversee the public sector, Parliament seeks independent assurance from the Auditor General that entities are operating, and accounting for their resources and performance, in accordance with Parliament's purpose.

The Auditor General's role is set out in the AG Act, and includes financial audits, key performance indicator audits, performance and compliance audits, information systems audits, forensic audits, and providing opinions on ministerial notifications given under section 82 of the *Financial Management Act 2006* (FM Act). We also report to LG entities as required by the *Local Government Act 1995* and regulations.

The independent financial audit opinions and reports we table in Parliament promote accountability and transparency, and help members of Parliament and the public to have a better understanding of public sector entity performance. These reports, together with the recommendations, help entities' management and the government of the day to improve governance and control environments and determine how cost effective, compliant and responsive public services are.

Reports with adverse findings raise matters of concern to Parliament and the public while other reports can share good practice across the sector and can increase Parliament and community confidence.

<sup>1</sup> Transparency reports were identified as necessary for private sector audit firms where public accountability disclosures are not separately mandated by legislation. As the Auditor General functions and approach are outlined in legislation, and discharged through our annual report and this statement, we will not continue to produce a transparency report.



## Who we audit

We audit the following entities and accounts:

- approximately 180 State entities:
  - State government departments
  - statutory authorities
  - State-owned corporations
  - entities controlled by public sector agencies
- Public Ledger – the Consolidated Account, Treasurer’s Advance Account and Treasurer’s special purpose accounts
- Annual Report on State Finances
- approximately 145 WA local governments and regional councils (LG entities).

We may also audit entities performing functions on behalf of public sector entities using ‘follow-the-dollar’ powers, and undertake audits on request.

In 2017, the *Local Government Act 1995* (LG Act) was amended to require the Auditor General to audit LG entities. Performance audits could begin straight away and there was a staged transition arrangement for financial audits. As the existing audit contract for a LG entity expired, the responsibility for auditing that entity transitioned to the Auditor General. As of the 2020-21 financial year, all LG entities are audited by the Auditor General, regardless of whether or not their existing audit contracts have expired.

For a comprehensive list of audited entities each year please refer to our annual report at [www.audit.wa.gov.au](http://www.audit.wa.gov.au).



## Types of audits

The Auditor General performs the following financial and assurance audits.

### Financial audits

These annual audits provide Parliament, ministers and LG entity councils with independent assurance that entities have:

- based their financial statements on proper accounts
- fairly presented their operating results, cash flows and financial position at the end of the financial reporting period, in accordance with relevant legislation, regulations, Australian Accounting Standards and other mandatory professional reporting and disclosure requirements.

### Controls opinion of State entities

Controls are the policies and procedures established for the governance and management of an entity. For the State entities, where mandated, these opinions provide assurance that there are sufficiently adequate controls for the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities in accordance with legislative provisions.

### Key performance indicator audits of State entities

Treasurer's Instruction 904 mandates that most State entity key performance indicators (KPIs) are reported in annual reports.

Performance indicators allow State entities to measure, monitor, evaluate, report and improve their performance.

The KPI audit involves providing independent assurance that:

- KPIs are relevant and appropriate to help users assess State entity performance
- KPI results fairly represent indicated performance for the period under review.

### Financial position of LG entities

Unlike State entities, LG entity audits do not include an opinion on their controls or KPIs. However, where relevant, we report significant non-compliance if identified during the course of the audit. Examples could include non-compliance with Part 6 of the LG Act, the Local Government (Financial Management) Regulations 1996 or other applicable financial controls essentials to good governance.



### Performance audits

Our performance audits seek to provide Parliament and the people of Western Australia with assessments of the effectiveness and efficiency of public sector programs and activities, and identify opportunities for improved performance.

Performance audits are an integral part of our overall program of audit and assurance for Parliament. Internally we differentiate audits on the basis of size and complexity. We conduct these performance audits in accordance with section 18 of the AG Act. Our topic selection approach is outlined on page 22.

Our audits can focus on entity compliance with legislation, public sector policies and accepted good governance practice. These audits highlight issues surrounding regulatory, financial and administrative processes and make recommendations for improvement.

Each year we also conduct a number of more complex performance audits on a range of topics. These audits primarily focus on the effective management and operation of State and LG entity programs and activities.

Our audits also seek to highlight best practice approaches for all entities to consider implementing, so as to maximise the benefit derived from our audit program.

#### *Focus area performance audits*

We conduct these audits at a sample of State or LG entities as an extension of our annual financial audits, using more detailed testing than is required for forming our financial audit opinions. Our aim is to assess how well they establish and implement common business practices and related financial controls. The findings of these audits provide an insight to good practice, so all entities, including those not audited, can consider their own performance.

### Information systems (IS) audits

IS audits focus on the information technology (IT) environments of entities. We audit general computer control (GCC) environments to determine whether the controls effectively support the confidentiality, integrity and availability of IS. These audits support the financial audit and controls opinions. GCCs include controls over the IT environment, computer operations, access to programs and data, program development and changes. We use the results of our GCC work to inform our capability assessments of entities. We have developed a model that uses accepted industry good practice as the basis for assessing the maturity of entities' IT controls across the 6 areas of:

- information security
- business continuity
- management of IT risks
- IT operations
- change control
- physical security.

The model provides a benchmark for entity performance and a means for comparing results from year to year.

We also review a selection of important applications that entities rely on to deliver services. Applications are software programs that facilitate an entity's business processes including human resources, case management, licensing and billing. We focus on the key controls that ensure data is secure, complete, accurately captured, processed, maintained and reported.

### Forensic audit

In 2019, following a request from the then Treasurer, we established a Forensic Audit business unit. The unit's purpose is to improve resilience to fraud and corruption across the WA public sector by conducting targeted, risk based, forensic audits that identify vulnerabilities to, and indicators of, significant fraud in State government entities. These audits are conducted under section 18 of the AG Act. Forensic audit targeting identifies a high-risk entity and its activities or a high-risk activity and the entities most significantly exposed to that activity, prioritising instances where these entities and activities intersect for targeted forensic audits. Our reports will detail fraud and corruption vulnerabilities that we identify and provide recommendations for improvement. Where we discover indicators of potential fraud or corruption, entities will be given relevant information and supporting evidence to enable them to investigate further.

### Audit requests from parliamentary committees

As per the topic selection process outlined in this document, the Auditor General must have regard to the audit priorities of Parliament. In particular, this includes requests from either House of Parliament, the Public Accounts Committee (PAC) or the Estimates and Financial Operations Committee (EFOC) (section 8 and section 20 of the AG Act).

The Auditor General formally invites PAC and EFOC to suggest audits to include in our forward program and also welcomes suggestions from the other committees and members of Parliament.

Before undertaking an audit requested by a committee, we will advise the committee of our intended audit objective and criteria, and then keep them informed of our progress as appropriate.

### Audits by arrangement

Under section 22 of the AG Act, we can conduct audits and other services by arrangement for any person or body. This includes auditing financial statements and accounts relating to hundreds of Commonwealth or State grants where this is a condition, and joint audits with other Australian Auditors General in relation to Commonwealth/State activities.

### Additional requests or dispensations

#### *Requests from the Treasurer*

The Auditor General may audit any accounts specifically requested by the Treasurer. These requests generally arise when Government has given a grant or advance of money to a person for a specific purpose. The Treasurer may request the Auditor General audits that person's or entity's accounts to determine if they have used the money appropriately for the purpose of the grant or advance. These audits are performed in accordance with section 19 of the AG Act.

#### *Requests from the Minister*

The Auditor General may perform supplementary audits of LG entities requested by the Minister for Local Government.

## Supporting public sector accountability and performance

### Better practice guides

Where we believe there is value to the WA public sector, we develop better practice guidance to build understanding and capability in entities. This may include sharing the principles of sound public administration that we conduct our performance audits against or developing more comprehensive guidance documents. This guidance aims to help entities perform at their most efficient level, encouraging them to adopt better practices to transform and improve business processes and accountability.

### Forming an opinion on ministerial notifications (section 82)

Where a minister decides not to provide certain information to Parliament about an agency's conduct or operation (usually in response to a parliamentary question), certain requirements under the FM Act and the AG Act come into force. The minister must notify the Auditor General and both Houses of Parliament. The Auditor General is then required to form an opinion on how reasonable and appropriate the minister's decision to not provide information was. We report the opinion to Parliament. See page 27 for our process. This function is designed as a safeguard to promote disclosure in the public interest, by checking the veracity of a minister's claim as to why they considered it reasonable and appropriate to not provide the requested information to Parliament.

### Other work

We also support entities by:

- **Management letter findings** – Our management letters have an educative role in conveying our financial and IS audit findings to entities, ministers and councillors including recommendations to address those findings, and implementations if not addressed.
- **Preparing position papers on emerging financial reporting matters** – We provide our view on significant matters relating to accounting treatments, where necessary, to achieve consistent reporting in the sector. To facilitate a common understanding we may issue a position paper on specific accounting or auditing matters.
- **Interacting with audit committees** – We aim to improve the efficiency and effectiveness of entity audit committees by increasing our interaction with committees and raising awareness of the cost-effective governance benefits a good audit committee brings.
- **Commenting on audit related matters and liaising with central agencies and standard setters** – We proactively engage with entities to enhance financial management, governance practices and performance capability to achieve tangible improvements in the capacity and confidence in the sector. We also liaise with those who set the standards and with central entities to improve auditing and financial reporting in WA and reduce red tape wherever possible and appropriate.
- **Presenting at forums** – We present our work at relevant forums including public sector conferences, professional membership organisations, various local government events and at educational institutions to share insights and learnings.

## How we audit

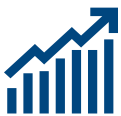
### General principles

In achieving our purpose of serving the public interest, we follow the principles of:



#### **Integrity**

We conduct our business in an independent, professional and ethical manner. We apply an open, honest and fair approach to our stakeholders.



#### **Quality**

We provide credible work that makes a difference. We take pride in our work and strive to deliver above expectations, being agile to improve our efficiency and effectiveness.



#### **Service**

We perform our duty to the Parliament and community, valuing the contribution of our people and stakeholders, and encouraging a collaborative and open approach to our work.



#### **Compliance**

We conduct audits in accordance with applicable auditing and assurance standards, and where relevant we will take into account the unique circumstances and benefits to the people of WA provided by our mandated role working across entities and sectors.



#### **Fairness**

We approach all audits in a fair and constructive way.



#### **Professional judgement**

We report matters of significance arising from audits to entities and the Parliament.

### Our approach

There are some common elements that support the quality of audits performed within our Office:

- our audits are supported by sufficient and appropriate evidence to ensure accuracy and fairness
- priority is given to effective communications around our audit work
- all audits follow a clear methodology with multiple levels of control and review.



#### Independence

The Auditor General is an independent statutory officer with responsibility for auditing WA entities.

The [Governor](#) appoints the Auditor General for a non-renewable term of 10 years.

The Auditor General reports directly to [Parliament](#).

This independence is the cornerstone of public sector audit and the Auditor General must be free from pressure, influence or interference from any source that may erode or be perceived to erode that independence. The provisions of the AG Act strongly articulate and support the independence of the Auditor General's function. The Auditor General is not involved in Executive Government decision-making or subject to direction from the Government of the day.

Subject to the AG Act and other laws, the Auditor General has complete discretion around how they perform their work.

The Auditor General is the accountable authority and Chief Executive Officer of the Office of the Auditor General (OAG), which is a public sector entity established to support the Auditor General. OAG employees are also independent and we assess and manage declared interests as appropriate, including a requirement for the audit team to declare any conflicts of interest at the beginning of each audit.

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#### Audit evidence

Through risk-based audit procedures we gather sufficient appropriate evidence to form our conclusions and recommendations.

Our auditors gather information and evidence from a range of sources including entity records systems, data extraction and analysis, interviews with relevant employees and stakeholders and surveys or questionnaires. From time-to-time for audit purposes we undertake data matching processes with data we receive from other entities.

We ensure close supervision, review and monitoring of audit progress, analysis and findings throughout the audit process, and constitution.

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#### Access to information

Under the AG Act, auditors have unrestricted access to entities' information in order to fulfill their duty to the Parliament and provide assurance on government administration. This is irrespective of any restrictions on disclosure imposed on those entities by other legislation such as secrecy and commercial-in-confidence provisions, or common law privileges including claims of Cabinet Confidentiality.

Audit files and working papers remain confidential through strict provisions of the AG Act. Audit information is exempt under the *Freedom of Information Act 1992* (FOI Act).





## Acting on recommendations of the Auditor General

The Auditor General has no authority to force entities to adopt audit recommendations.

While an audit can be a catalyst for positive change, the Auditor General cannot, and should not, be responsible for implementing such change. This remains the responsibility of entity management, Executive Government and ultimately Parliament.

The Legislative Assembly's Public Accounts Committee will often examine entity responses to our performance audit reports, and on occasion other audit reports, to ensure our recommendations receive due consideration. The Committee may write to entities seeking an update or call them to appear at public hearings to discuss their responses to our recommendations in depth. On occasions, we are called to attend these hearings as observers and provide feedback to the committee on the testimonies given.

The Legislative Council's Estimates and Financial Operations Committee has a critical remit to consider and report on 'any matter relating to the financial administration of the State'. As part of this remit, EFOC consults with us regularly and may use information from our reports to scrutinise entities' financial management controls and performance.

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### Quality review

With independence and wide-ranging powers comes the responsibility to undertake audits efficiently, effectively and to a high standard.

A number of internal and external quality assurance mechanisms are in place to help us meet our mandate and comply with professional standards.

These include:

- auditing in compliance with relevant Australian auditing and assurance standards
- an internal peer review through our engagement quality control and quality threshold review processes
- internal review during audits and on completion
- quality assurance reviews of audit files overseen by our Audit Quality Monitoring Committee
- external peer review of the audit files by other Australasian Council of Auditors-General (ACAG) audit offices or independent contract professionals
- self-assessment against a framework agreed to by the ACAG
- a regular parliamentary performance review.

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### Highly trained, professional workforce

Our auditors are required to have, at a minimum, an undergraduate qualification.

All financial auditors are also required to have (or for junior employees be working towards) professional accounting and audit qualifications, and participate in ongoing training.

As members of professional bodies and subject to the quality standards prescribed by the Auditor General, our auditors are required to observe professional ethical standards.

The Office attracts employees with a broad range and depth of experience in the private and public sector with academic, not-for-profit, international, regulatory, economic and industry backgrounds. Where possible, when an employee's experience is relevant to an audit we will assign them to the audit team.



### Community involvement

We encourage our employees and senior leaders to participate in community activities including committees, professional membership organisations, not-for-profit organisations and to take non-executive board positions where participation does not affect the Office's independence. This community involvement broadens the respect and appreciation for community and other governance challenges.

### Compliance with standards and policies

Our employees are required to abide by and annually acknowledge their compliance with our *Code of Conduct*. It sets out the standards of conduct, behaviour and professionalism expected from employees including impartiality, independence and integrity, confidentiality, credibility and equity.

Our *Conflict of Interest* policy also requires employees to submit an annual declaration of independence and to declare any potential or perceived conflicts of interest.

Employees are also required to prepare an audit engagement declaration for each audit that they perform to ensure that they are specifically independent of that engagement. They are also required to report outside of these times any matter that may arise.

A register is maintained, which records perceived or actual conflict of interest matters and identifies employees that are prohibited from working on specific audit engagements and how any identified conflicts will be managed or mitigated.

Our *Receipt of Gifts, Benefits and Hospitality* policy sets the criteria for employees accepting gifts and requires approval for acceptance of all gifts from the relevant Executive Management Group member. A Gifts Decision Register records the decision to either accept or decline the gifts. The register is reviewed at least every 6 months to ensure compliance with the policy and to identify any issues of concern.





## Professional development

The professional development of our employees is important. We demonstrate this by:

- a structured professional development framework which includes a graduate recruitment and induction program
- the delivery of internal technical and non-technical, public sector and non-public sector training to develop employee knowledge in a broad range of areas
- external training offered to employees to meet individual needs.

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## Contract auditors

The Auditor General may appoint an appropriately qualified and experienced person who is not an employee of the Office to be a contract auditor. Contract audit firms conducting financial audits are registered by Australian Securities and Investments Commission (ASIC) as company auditors.

Contract auditors:

- are authorised auditors for the purpose of the AG Act and have the same audit access powers as employees
- are appointed by the Auditor General from our register of accredited firms
- must not provide other services of any nature to an entity they are auditing, during the period of the contract for audit services, without the prior written approval of the Auditor General. Approval will generally only be granted for services of an assurance nature such as grant acquittal.

All work undertaken by contract auditors must be performed in accordance with the Office contract for services and the auditing and assurance standards.

After the audit is complete we perform a review of its scope and quality to ensure that it complies with the auditing and assurance standards, including those relating to ethics and independence. The audit is subject to our internal quality review process and the Auditor General or delegate finalises and signs the audit opinion.





Quality

**External consultants or subject matter experts**

The Auditor General may decide to engage an external consultant or subject matter expert when needed for audits. Their work is subject to our internal quality control processes.

We have in-house experts on audit, accounting and financial reporting, who advise audit teams and contribute as relevant to submissions on accounting and audit standards and inter-jurisdictional public sector audit matters.

**Rotation policy**

We use a rotation policy for our senior employees and contract audit firms to ensure that our auditors and firms do not remain on the same audit for an extended period of time and thereby risk losing their independence or objectivity as a result of familiarity. Our policy complies with auditing standards that employees must rotate off an entity audit after a maximum of 7 consecutive years.



### Audited entity

Effective communication with entities is a key part of the audit process. To achieve this we:

- consult early with stakeholders on potential topics for the forward audit program to see where we can best add value through independent assurance
- communicate throughout the audit with the entity to ensure a no surprises approach, as appropriate
- ensure we continue to liaise with nominated entity contacts as well as those also necessarily involved
- resolve any issues in a timely way
- offer entities and officials natural justice and procedural fairness as we finalise our reports, and ask them to provide a response to our recommendations.

In some cases we de-identify audited entities in our reports. This may be for security reasons, to reduce pressure on entities (for example, during the State Government response to COVID-19) or to highlight that the findings are generally applicable across the sector with our audit serving as a representative benchmark. In all cases, entities receive detailed findings so they can address any identified shortcomings.

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### Reporting to Parliament

Under section 24 of the AG Act, the Auditor General is required to report to Parliament at least once a year on the results of audits that are significant and require further reporting. These reports may include matters of significance from financial, performance and forensic audits. In addition, the Auditor General may submit a report to Parliament on any performance audit matter.

These reports highlight issues of importance to Parliament and can generate considerable parliamentary and community debate.

Audit findings and recommendations relate to areas such as:

- how well entities have achieved value for money using taxpayers' dollars
- how effective and/or efficient entities are in meeting Government objectives
- compliance with legislative, regulatory and policy frameworks.





## Complaints and enquiries from the public

Community members make contact with the Office to suggest areas for audit. These are often about specific actions by entities. We call these referrals.

The referrals can be a crucial early warning of issues relating to the sector's performance, probity and compliance. Not all of the matters by themselves lead directly to performance audits as our audits tend to focus on systemic issues rather than individual cases. Nevertheless, they can often serve as background and indicators of the need for an audit.

The Office tries to assist referrers by providing advice on where they should direct their referral, if the Auditor General is not the appropriate authority.

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## Other audit offices

The Auditor General regularly liaises with other Australian audit offices to develop best practice and share management processes. This is done through the Australasian Council of Auditors-General.

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## Engagement with central entities

The Office engages closely with central entities such as the departments of the Premier and Cabinet; Treasury; Finance; Local Government, Sport and Cultural Industries and the Public Sector Commission to support initiatives to improve the public sector's financial management, accountability and governance.

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## Communication with local government bodies

We regularly meet with peak local government bodies:

- to learn and share knowledge and audit findings with stakeholders
- through observer status on various working groups and forums convened by the Department of Local Government, Sport and Cultural Industries.





## Risk-based methodology

To support audit quality, we have established audit and assurance methodologies (approaches and tools) to guide our audit teams. Our audit approach for both financial audits and performance audits is based on risk and materiality. This ensures that we focus our limited resources on the areas of significance and where risk and impact of errors or deficiencies is higher. Our audit and assurance methodologies are adapted to developments in professional standards, new functions such as our Forensic Audit business unit and to findings from peer reviews and external quality control reviews.

Our financial audit methodology and toolset was developed and shared across multiple jurisdictions, building on best approaches from public sector and private sector audit practices.

Our Performance Audit Manual, in conjunction with our methodology, is a key part of our governance mechanisms and shows how our Office complies with the Australian Assurance Standard ASAE 3500 Performance Engagements issued by the Australian Auditing and Assurance Standards Board. This standard outlines how to scope, conduct and report on audits, to ensure that we maintain and improve quality where needed.

Specific standards for forensic audit do not exist, so we are drawing on the principles in audit and accounting standards and other professional practices to underpin the development of our methodology and approach.

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## Australian auditing and assurance standards

The methodology for all of our audit opinions complies with the Australian auditing and assurance standards applicable to all assurance engagements. Where relevant, we take into account our unique circumstances provided by our mandated role and the WA public sector legislative and regulatory framework.

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## Technology

The Office takes a multi-layered approach to information handling and storage including encryption, multifactor authentication and information classification. Data is transferred using encryption email or large file transfer to OAG systems or encrypted laptops, and where unavoidable, encrypted OAG USB storage devices in accordance with the Office's information classification framework and handling policies. Compliance with this is regularly monitored. Data is securely stored within our audit tool software or our records management system. We continually review our operations in response to emerging technologies and the changing information security landscape, including the use of data analytics to streamline audits.

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## Sampling methodology

When selecting a sample of documents to audit, an auditor will use their judgement and knowledge of the audited entity to make a preliminary assessment of control risk, detection risk and planning materiality, all of which affect sample size. Our financial audit methodology uses automated sampling methodology. This provides a robust audit framework that we use to determine the size of the samples and generate automated sample selections from the data population. Statistical sampling is our primary selection method for financial audits, using random or monetary unit sampling. Before selecting our sample, we consider stratification of the data population where appropriate. Non-statistical sampling is a secondary method we use. Our performance audits use sampling methodologies which we match to the type of analysis required.



### Data analytics

A driver and key element of our forensic audits, we also consider if data analytics is applicable to our performance and financial audits. In the case of financial audits, a lot of the analysis is standardised, especially for journals testing. We are building our data analytics capability through our forensic audit business unit to identify potential indicators of fraud and other wrongdoing. Our performance audits also regularly analyse entity datasets to inform audit findings.

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### Supervision, consultation and review

We have a strong culture of consultation, supervision and support embedded throughout the audit methodology. Engagement quality control reviewers, technical specialists such as IS auditors, industry specialists and our Technical and Audit Support business unit provide quality control and support for our employees.

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### Continuous improvement

The Office is committed to always looking for areas where we can improve the efficiency of the audit methodology and audit process.

Our regular survey of members of Parliament, entities and audit committees assists us to monitor our performance in meeting our outcome of an informed Parliament on public sector accountability and performance. Through the surveys, members and audited entities can share their views in areas such as satisfaction with our services and the effectiveness and usefulness of our products.

We also participate in benchmarking surveys which allow us to compare our activities with other Australian audit offices on a variety of quantitative and qualitative measures. We use this information to inform decision-making and organisational planning.

## What our audits cover

Our audits provide reasonable assurance on what we have audited. For example that the financial statements as a whole are free from material misstatement.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian auditing and assurance standards will always detect a material misstatement when it exists. This is because external audit techniques involve:

- use of reasonableness as a professional judgement
- materiality which enables a focus on more significant matters
- use of sample testing
- assessment of the effectiveness of internal control structures
- assessment of risk
- limited scope in relation to fraud.

The primary responsibility for the detection, investigation and prevention of irregularities, fraud, illegal acts and errors always rests with entities. The entity's management is responsible for:

- keeping proper accounts and maintaining adequate systems of internal control
- preparing and presenting the financial statements and performance indicators
- complying with the FM Act, the LG Act and other relevant legislation.

In some cases, providing reasonable assurance is not possible or not considered by the Auditor General to be necessary in the circumstances. In these cases, a lower (limited) level of assurance will be provided. If no assurance is provided, such as due to an inability to obtain sufficient and appropriate evidence, a disclaimer of opinion will be issued.



## Our assurance process

From time-to-time, as part of our ongoing process improvements, we may add new elements into our approach. Where significant, and once embedded to the overall process, we will update this *Audit Practice Statement*.

## Financial audit approach

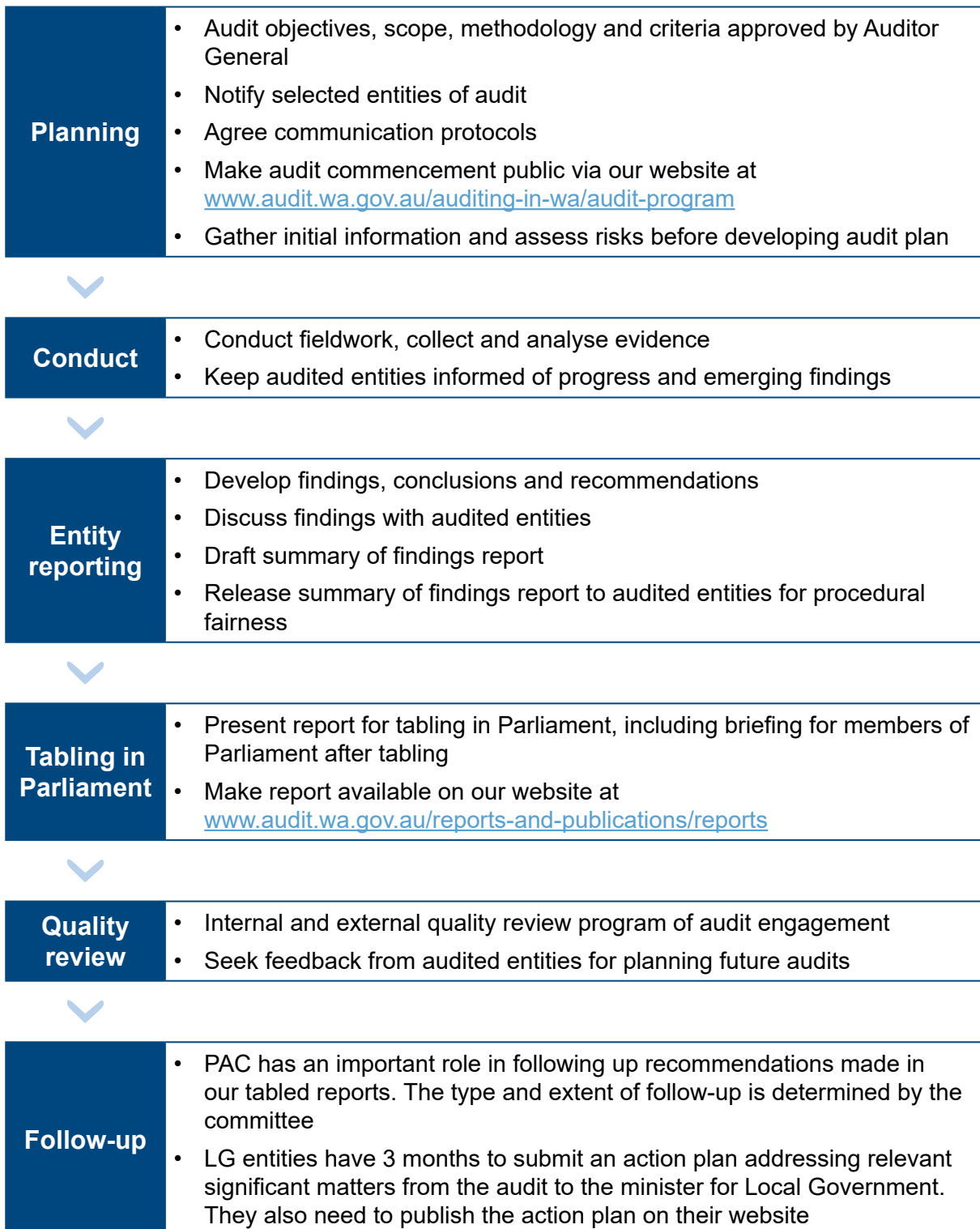
Our nationally recognised audit approach, which accords with Australian Auditing Standards and nationally recognised best practice, comprises 4 steps.



Financial audit process

## Performance audit approach

Our performance audits conducted in accordance with Australian Standards on Assurance Engagements and nationally recognised best practice, follow a phased approach.



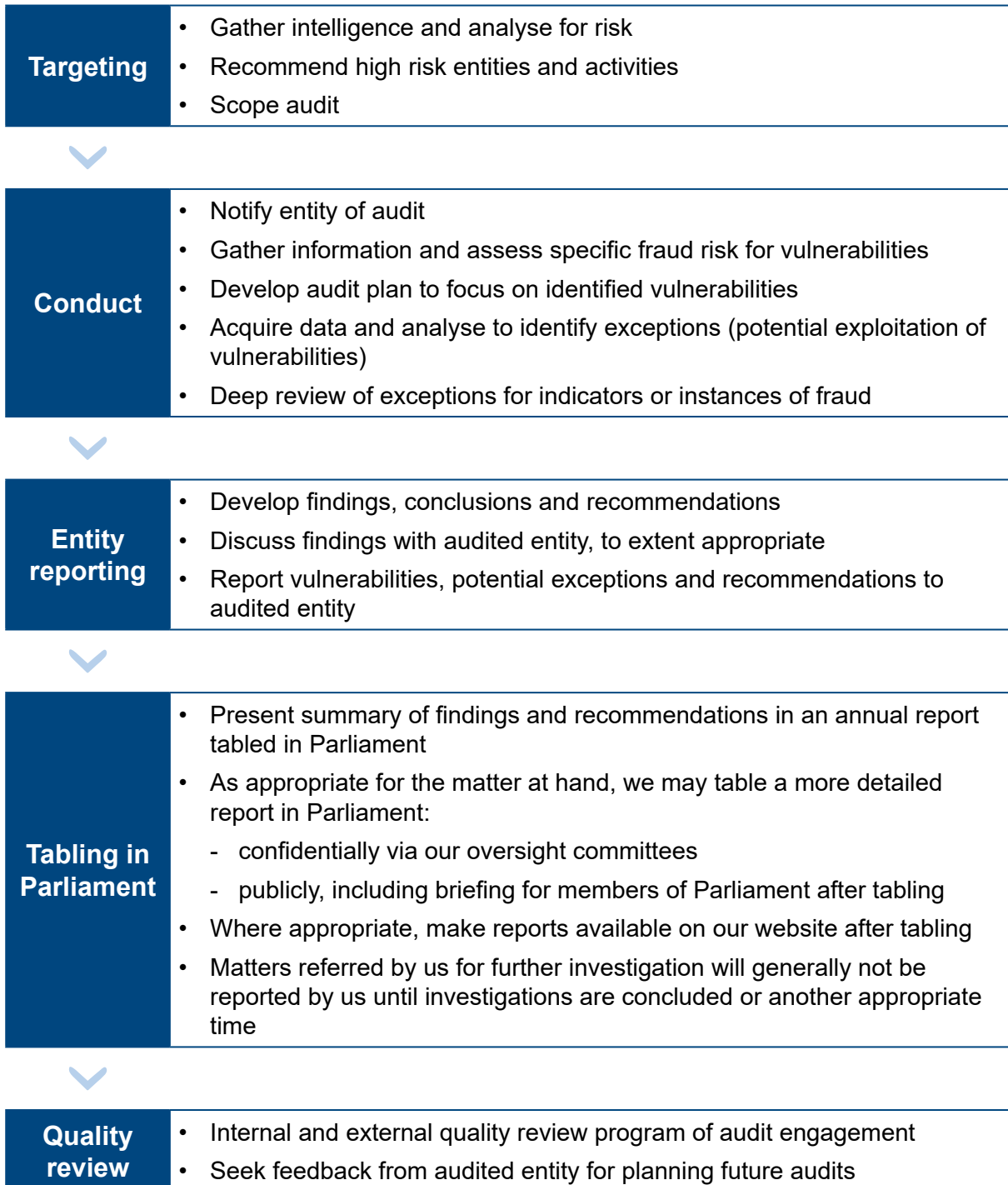
Performance audit process

## Tabling protocol

The Auditor General is obliged to table and make public a report within 14 days of signing. If Parliament is not sitting on the day of tabling (for instance during parliamentary recess and caretaker periods), the report will be deemed tabled by the Clerk of each House, and announced in Parliament on the next sitting day. Once a report is tabled, we publish it on our website, notify members of Parliament and email subscribed members of the public. Where appropriate, we also offer briefings to members of Parliament, post on social media and engage with media requests.

## Forensic audit approach

A unique function for an Australian audit office, our forensic audit unit continuously applies data analytics, strategic intelligence and audit methodology to recommend, conduct, evidence and inform audits. Selecting an entity for audit does not mean we suspect fraud or corruption is occurring. Forensic audits are confidential while in progress and we will not be publishing a forward audit program listing entities and audit topics.



If during any of this audit work instances of misconduct and/or fraud are identified, we will refer them to the entity, the Corruption and Crime Commission, WA Police Force or Public Sector Commission as appropriate.

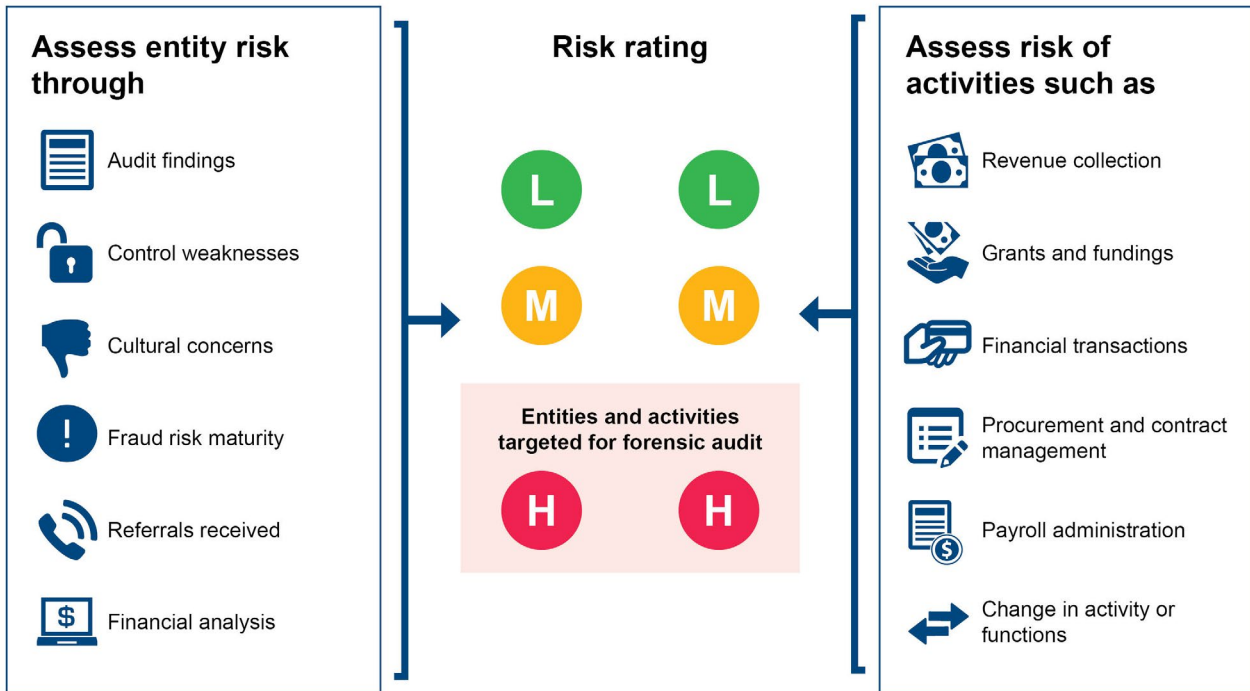
Our tabling protocol mirrors that of performance audit.

### How we target forensic audits

Our approach to targeting forensic audits is driven by an assessment of risk at a sector, entity and activity level supported by intelligence gathered through various mechanisms and data analytics.

Selecting an entity for a forensic audit does not mean we suspect fraud or corruption is occurring within that entity. Our intent is, preferably, to identify vulnerabilities in higher risk entities or activities that can be eliminated before actual fraud has occurred. However, we recognise that our forensic audit work may detect wrongdoing that will need to be referred.

We assess entity risk by analysing indicators of internal deficiencies and fraud exposure, and activity risk by analysing an activity's susceptibility to fraud.



Source: OAG

Our risk driven approach then examines those entities and activities to further profile potential fraud risks specific to the entity (e.g. the procurement process: 1 entity appears high risk in vendor management fraud whereas another entity may appear highly exposed to potential bid-rigging).

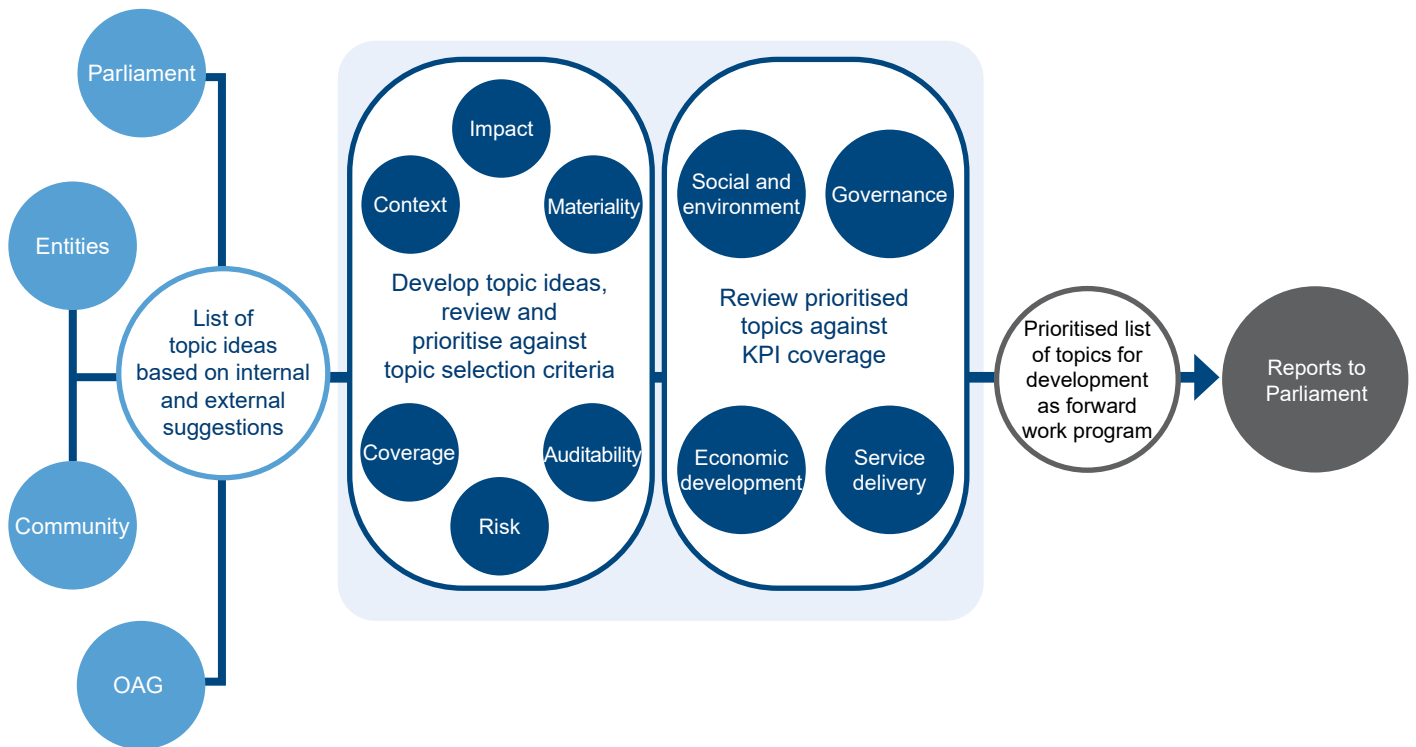
## Topic selection

Our performance audit program is an important part of the Auditor General’s ability to provide timely assurance on important matters of public administration. The Auditor General’s ability to determine what, when and how to audit, without direction, is a key part of their independence. However, in determining audits we prioritise early engagement with entities, other oversight entities, members of Parliament, parliamentary committees and other key stakeholders.

Feedback on potential audit themes and topics is an important part of developing a forward program of audits that meets Parliament and the community’s need for assurance and transparency on how efficiently and effectively taxpayers’ money is used to deliver services and infrastructure. We publish our audit program on our website at [www.audit.wa.gov.au/audit-program](http://www.audit.wa.gov.au/audit-program).

Each year we also receive many enquiries (referrals), expressions of concern and requests for audits from members of Parliament and the community. The information we receive often helps us to identify topics for future audits. Our topic selection process allows us to balance these demands and to choose audits based on full consideration of their relative merits.

We assess and review potential topics against our criteria, priority themes and KPIs. We have processes in place to make sure that the selection of topics is objective, robust, transparent and generally focuses on systemic issues where an audit may have greatest impact on the efficiency or effectiveness of public sector service delivery. Individual grievances and cases do not generally result in a performance audit but may inform areas of focus. Our selection process is below:



Source: OAG

Our topic pool contains many more options than we are resourced to deliver as audits. Consultation on the themes and draft program is useful in prioritising which audits will go ahead. We keep Parliament, the public sector and community informed through consultation with entities, members of Parliament and parliamentary committees, and through the audit program published on our website.

We collate all our potential topics for audit and select priority projects for our forward program. We aim to have a program that is balanced in its coverage, contains topics that matter to Parliament and the community, and that reflects how and where the State is spending taxpayers' money. We use the following criteria:



### **Materiality**

Does the activity or program have potentially significant financial, economic, social or environmental management implications?



### **Impact**

Is an audit likely to have a positive impact on the community? Could it lead to improvements across the public sector in efficiency, effectiveness or accountability? Would an audit address concerns of the Parliament?



### **Risk**

Are there any indicators of known or suspected problems? Has the program changed significantly or undergone sudden expansion? Are issues emerging in related areas that could affect the area being considered for audit? Are there inherent risks that may not be well managed? Would any problems result in adverse consequences?



### **Context**

Is there strong community and/or parliamentary interest in the topic? Does the program have high community sensitivity or state-wide importance? Is it the right time to review this area? Are issues already well known? Is there another review, inquiry or audit in progress covering similar issues? Would an audit of the area reinforce other important current messages or themes?



### **Coverage**

Have we audited this area/entity recently? Does the topic help meet our objective of providing balanced coverage of government portfolios and performance over time? Does the topic impact Aboriginal communities and require Aboriginal community consultation?



### **Auditability**

Is the area amenable to audit? Does the Auditor General have a role to highlight efficiency or effectiveness in this area? Will information and evidence be available? Can a past methodology be used or will the methodology be reusable? Can analytical tools be used? Can it be audited with resources that match the impact and materiality of the topic or will it take disproportionate resources for limited benefit?

## Forming an opinion on ministerial notifications (section 82)

### Introduction

Certain requirements under the FM Act and the AG Act come into force when a minister decides not to provide certain information to Parliament about the conduct or operation of an agency<sup>1</sup> within their portfolio (usually a decision taken in response to a parliamentary question).

Section 82 of 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 AG Act requires the Auditor General to provide an opinion to Parliament as to whether the minister's decision was reasonable and appropriate.

### Principles behind section 82

The Auditor General recommends agencies consider transparency and accountability in the public interest when advising a minister considering whether to provide information to Parliament.

Sections 81 and 82 of the FM Act were introduced to support the disclosure of information to Parliament. Consequently, the default position of a minister and their entities and advisers should be one of disclosure, when it not contrary to the public interest. This is also consistent with the aim of the *Freedom of Information Act 1992*.

Agencies who deal with sensitive information should consider if the requested information is already publicly available. They should also consider if it could be contrary to the public interest to disclose it, whether it could be provided to those with a need and a right to know as appropriate, either in redacted form, through limited dissemination or in a private session.

### How soon must the minister send a notice?

Section 82 requires a minister to issue the Auditor General with a notice within 14 days of making a decision not to provide the information to Parliament.

The Auditor General may also take action if they become aware that a minister has decided not to provide information to Parliament and has not issued a notice within the 14 day statutory requirement. Such action could include contacting the minister to advise them of the legislative requirement.

### When are section 82 notices not required?

A notice under section 82 of the FM Act is unlikely to be required in the following circumstances:

- the minister has advised that information will be provided at a later date and there is reasonable justification for the delay
- an answer has been provided in a previous question
- the information is already publicly available and the minister has referred the questioner to the public information
- the requested information does not concern the conduct or operation of an agency as required by the FM Act
- the information is already being sought under the FOI Act and a decision has not yet been made
- the minister refers the request for information to another minister, with responsibility for the agency in question
- the information does not exist.

If a notice falls into a category above, the Auditor General may form the view that the notice was unnecessary and an opinion pursuant to section 24(2)(c) of the AG Act is not required. In this event, the Auditor General will advise the Parliament of this assessment.

<sup>1</sup> The *Financial Management Act 2006* defines an agency as a department, a sub-department or a statutory authority.

### Methodology

All notices received under section 82 of the FM Act lead to an assessment by the OAG.

Our practice is to:

1. Determine if the notice was required by section 82 of the FM Act. If the notice was not required (not valid), then the Auditor General will inform the minister and Parliament.
2. If the notice was required, we will review the information in the notice, including the minister's explanation for the decision.

If the minister's reason for not providing the information was that it is:

- commercial-in-confidence
- Cabinet-in-confidence
- subject to legal professional privilege
- other valid reason

then we will obtain and assess relevant information from entities and the minister's office to see if it meets our criteria and considerations for these areas, maintaining the confidentiality of the information during the process.

3. Based on this detailed review, an opinion will be provided that the minister's decision was either:
  - reasonable and therefore appropriate
  - not reasonable and therefore not appropriate.

### Reporting

We include the Auditor General's opinion and the reasons for reaching the opinion in a report tabled in Parliament. The report is tabled as soon as feasible after the opinion is determined. We advise the member of Parliament, who asked the minister for the information, of the report's tabling date.

Our procedural fairness process includes providing the draft report which incorporates the audit team's recommended opinion to the minister and the relevant agency for comment before the Auditor General considers feedback and finalises the opinion for tabling in Parliament.

Even if we find the minister's decision not reasonable and therefore not appropriate, we generally do not disclose the requested information in our report.

### Common reasons for not providing information to Parliament

Our approach supports a culture of openness and accountability for the expenditure of public money, efficient and effective management of government agencies, and the most appropriate and beneficial use of public resources.

#### *Commercially confidential*

The FM Act does not provide an interpretation of 'commercially confidential'. In its absence, we draw on a 2002 legal briefing published by the Australian Government Solicitor on identifying and protecting confidential information. It can be viewed at: [www.ags.gov.au/publications/legal-briefing/br64.htm](http://www.ags.gov.au/publications/legal-briefing/br64.htm).

Our assessment draws the distinction between information that is commercially confidential to a third party and information generated by and confidential to Government.

#### **If the information is commercially confidential to a third party, the following criteria apply:**

- a) the confidential information is specifically identified
- b) the information was provided under an understanding that it would remain confidential
- c) the information must be sufficiently secret. This means that the information should not generally be known or ascertainable
- d) disclosure would cause unreasonable detriment to the owner of the information or another party.

Criterion a) is critical when assessing information provided to Government by a third party. If it is not met, the other criteria are not assessed.

#### **If the information is commercially confidential to government, the following criteria apply:**

- a) the information must be sufficiently secret. This means that the information should not generally be known or ascertainable
- b) disclosure would cause unreasonable detriment to the owner of the information or another party.



In considering public interest, we also are mindful of the requirements of section 81 of the FM Act, which limits the capacity of a minister to cite commercial confidentiality, as grounds to not provide information to Parliament. Section 81 states:

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

- (a) no action is taken or omitted to be taken; and*
- (b) no contractual or other arrangement is entered into, by or on behalf of the Minister or agency that would prevent or inhibit the provision by the Minister to Parliament of information concerning any conduct or operation of the agency.*

Government contracts typically reflect this requirement in a standard clause that allows the disclosure of confidential information if it is 'required by any law, judicial or parliamentary body or governmental agency'.

### Cabinet confidentiality

Cabinet confidentiality is a particularly complex area of assessment. There is no science or statute to determine when it applies.

To help guide our assessments, our office has reviewed a range of state and national resources, including cabinet handbooks and freedom of information acts.

We base our examinations on the consensus view that the core principle of cabinet confidentiality is to **protect information that would reveal deliberations and decisions of Cabinet**.

We assess the following:

- Was the information created for the purpose of informing Cabinet or being discussed in Cabinet? Does it include policy options or recommendations prepared for submission to Cabinet?
- Does the information contain material that would reveal the deliberations and decisions of Cabinet?
- Is part or all of the information publicly available, or readily available within the agency?

- Did the Minister consider providing any sections of the information that would not reveal deliberations and decisions of Cabinet?

When information requested in Parliament relates to cabinet records of a previous Government, a minister can seek access, and we consider that they should, in accordance with established conventions, to provide the information to Parliament.

### Legal professional privilege

For legal professional privilege to apply, communications between the client and lawyer '...must be for the dominant purpose of legal advice or in relation to actual or anticipated litigation ...'.<sup>2</sup> If the dominant purpose test is met, then legal professional privilege is frequently asserted as extending to draft and final versions of notes, memoranda or other documents. Only information related to the dominant purpose of the legal advice may require protection. Similar to the Cabinet confidentiality approach, any other information could be appropriately released.

### Access to information

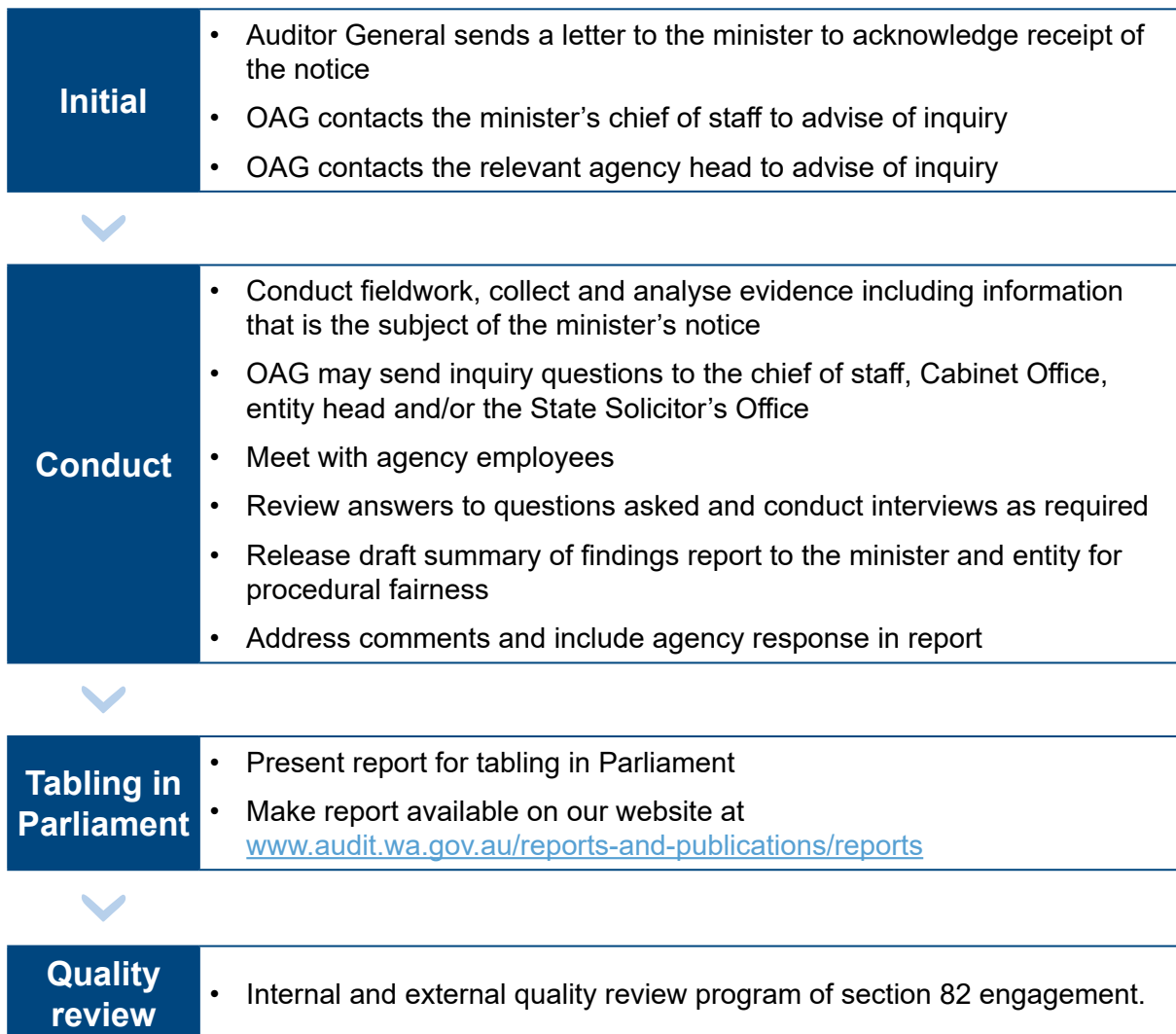
The Auditor General is an integral part of the Westminster system of responsible government, ultimately providing independent assurance to the Parliament of WA on public spending and aspects of government decision-making. In WA, this includes the requirement under section 82 of the FM Act for the Auditor General to form an opinion on whether a minister's decision not to provide information requested in Parliament is reasonable and appropriate.

This work may require access to confidential information, including documents subject to claims of legal professional privilege or public interest immunity. Providing access to the Auditor General for these legislated functions, and who maintains confidentiality, does not break the chain of privilege attached to such documents.

<sup>2</sup>Victorian Government Solicitor's Office, Understanding Legal Professional Privilege, 2007.

## Our approach to forming an opinion on ministerial notifications (section 82)

After a minister notifies the Auditor General and both Houses of Parliament of their decision not to provide information to Parliament, we follow the below approach. While this is not an audit, our procedures follow Australian auditing standards.



Section 82 process

## References for further information

Report on the Royal Commission into the Commercial Activities of Government and Other Matters Part II, 1992.

Standing Committee on Estimates and Financial Operations, Report 62: Provision of Information to the Parliament, May 2016, chaired by the Hon Ken Travers.

Legal opinion by Mr Bret Walker SC on the Construction and interpretation of the *Financial Management Act 2006* section 82 and the Auditor General Act 2006 section 24(2)(c), January 2015.

State Solicitor's response to the Mr Bret Walker SC legal opinion on the construction and interpretation of the *Financial Management Act 2006* section 82 and the *Auditor General Act 2006* section 24(2)(c) November 2015.

Legislative Assembly, Freedom of Information Bill: Second Reading, 10 November 1992, p. 6468.

Joint Standing Committee on Audit, Report 7: Review of the Operation and Effectiveness of the Auditor General Act 2006, August 2016.

OAG, Opinion on Ministerial Notification, Report 18, 11 August 2016, Appendix 1: Cabinet confidentiality.

OAG, Opinion on Ministerial Notification, Report 21, 6 October 2016.

OAG, Opinion on Ministerial Notification, Report 6, 31 October 2018, Appendix 1: Auditor General's view on legal professional privilege and access to information.

OAG, Disclaimer of Opinion on Ministerial Notification – Bushfire Centre of Excellence, Report 32, 23 June 2021.

## Oversight of the Auditor General

We are subject to various oversight and review processes, which we value as they hold us accountable to those we serve and provide us and our stakeholders with assurance that our processes are effective, efficient and evolving as necessary. This includes an annual audit of our financial statements, controls and KPIs by an independent auditor.

The AG Act requires Parliament's Joint Standing Committee on Audit (JAC) to carry out a review of the operation and effectiveness of the Act and the performance of the Auditor General every 5 years. The Committee appoints independent reviewers to carry out this work under their direction.

A review framework developed by ACAG helps us obtain assurance we are meeting relevant legal and professional standards. The framework comprises 4 sections: office governance, audit practice management, financial audit assessment and performance audit assessment, and reflects the ethical and quality monitoring requirements that apply to professional auditing and accounting practice.

The framework enables self-assessment but is most effective when undertaken by expert reviewers, including senior employees from other audit offices or professional firms. We arrange for other Australian audit offices to peer review a sample of our audits.

See our [annual report](#) for our latest reviews.



Source: OAG



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Office of the Auditor General  
for Western Australia

## RISK ASSESSMENT TOOL

**OVERALL RISK EVENT:** OAG – Audit Practice Statement February 2022

**RISK THEME PROFILE:**

3 - Failure to Fulfil Compliance Requirements (Statutory, Regulatory)

**RISK ASSESSMENT CONTEXT:** Strategic

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
<b>HEALTH</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>FINANCIAL IMPACT</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>SERVICE INTERRUPTION</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>LEGAL AND COMPLIANCE</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>REPUTATIONAL</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
<b>ENVIRONMENT</b>	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

*Please note: The release of the Audit Practice Statement is a guiding document to assist the Auditor General in their audit function, as required by the Auditor General Act 2006. The Audit and Risk Committee are simply receiving this report as an informing matter only, therefore there is no discernible risk to Council.*

**(Appendix AAR:8.5B)**

## RISK ASSESSMENT TOOL

**OVERALL RISK EVENT:** Cyber Security Role

**RISK THEME PROFILE:**

1 - Asset Sustainability Practices  
Choose an item.

Choose an item.  
Choose an item.

**RISK ASSESSMENT CONTEXT:** Operational

CONSEQUENCE CATEGORY	RISK EVENT	PRIOR TO TREATMENT OR CONTROL			RISK ACTION PLAN (Treatment or controls proposed)	AFTER TREATMENT OR CONTROL		
		CONSEQUENCE	LIKELIHOOD	INHERENT RISK RATING		CONSEQUENCE	LIKELIHOOD	RESIDUAL RISK RATING
HEALTH	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
FINANCIAL IMPACT	Cost of recovering from incident, would include ransomware, recovering data, delayed or loss of revenue.	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.
SERVICE INTERRUPTION	Protracted outage affecting business activities of the Shire	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.
LEGAL AND COMPLIANCE	State Records Act, Privacy Breach, Litigation as a result from inappropriate PII data release	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.
REPUTATIONAL	Possible adverse headline and media coverage from data or privacy breach	Moderate (3)	Possible (3)	Moderate (5 - 11)	Not required.	Not required.	Not required.	Not required.
ENVIRONMENT	No risk event identified for this category.	Not Required - No Risk Identified	N/A	N/A	Not required.	Not required.	Not required.	Not required.

