

## Issues

### Introduction

5.1 This chapter highlights the following significant issues considered by the Committee in 2004:

- concurrent documentation;
- demountable buildings;
- private sector financing;
- exemption of works for Defence purposes;
- monitoring of remediation works; and
- support.

### Concurrent Documentation

5.2 The Committee has been somewhat disturbed by a significant increase in the number of agencies requesting concurrent documentation. Requests for concurrent documentation were made in respect of six of the nine works considered by the Committee in 2004.

- 5.3 Concurrent documentation is not a standard feature of the public works inquiry process and should only be requested when extraordinary circumstances make it impossible for agencies to meet critical project deadlines by any other means. It is the Committee's view that the commencement of project documentation prior to the completion of the Committee's inquiry into a work unnecessarily pre-empts the outcome of the Committee's deliberations and thereby inhibits appropriate parliamentary scrutiny. Therefore, the Committee seeks to remind agencies that all works projects are subject to time constraints and that sufficient time should be included in the project schedule to allow for thorough scrutiny by the Committee without recourse to concurrent documentation.

## **Demountable Buildings**

- 5.4 In 2003 the Committee wrote to Senator the Hon Nick Minchin, Minister for Finance and Administration, expressing concern at the non-referral of works valued at some \$40 million, undertaken by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) at Baxter, SA. The Department had deemed demountable buildings, which formed the major elements of the proposal, to be 'moveable property' and therefore outside the statutory definition of a public work as detailed at Section 5 of the Act.
- 5.5 On 10 February 2004 the Committee was advised by the Hon Peter Slipper MP, Parliamentary Secretary to the Minister for Finance and Administration, that a draft regulation would be made to the Act to the effect that large construction projects making extensive use of demountable structures should be referred to the Committee. This advice was welcomed by the Committee as a measure that would facilitate appropriate scrutiny of the expenditure of Commonwealth funds.
- 5.6 On 1 July 2004 a regulation to the Act was gazetted stating that temporary buildings and structures, and demountable buildings and structures, are now specifically included in the definition of a work.

## **Private Sector Financing**

- 5.7 In March 2004 the Committee was notified by the Hon Peter Slipper MP that DoFA had received legal advice to the effect that:

...where the Commonwealth, or an authority of the Commonwealth, arranges for the provision, and subsequent leasing, of infrastructure to which is has set specific requirements that could not be met by the normal leasing of such facilities on the open market, it could be expected that the provisions of the Act would apply, that is, the proposal would require referral to the Committee.

- 5.8 This news was particularly welcomed by the Committee, given the increasing trend for Commonwealth agencies to acquire property and infrastructure through private financing and joint venture arrangements.

## **Exemption of Works for Defence Purposes**

- 5.9 In 2004 two projects with a total estimated cost of \$99.9 million were exempt from Committee scrutiny on the grounds that the works were for defence purposes and such examination would be contrary to the public interest. While appreciating the need to maintain strict confidentiality in such circumstances, the Committee was concerned to retain oversight of project budgets to ensure the most cost-effective use of public funds, especially where large amounts of money are to be expended.
- 5.10 On 3 June 2004 the Committee wrote to Senator the Hon Robert Hill, Minister for Defence, stating its concerns and requesting that, in such cases, Defence provide the Committee with an in-camera briefing on project costs, to ensure appropriate scrutiny of expenditure.
- 5.11 On 31 August 2004, the Minister responded that Defence had limited its use of the exemption clause provided under Section 18 (8) of the Act and that the Act contained no requirement for in-camera briefings where works had been properly exempt.

## **Monitoring of Remediation Works**

- 5.12 An issue of particular concern arising from the Committee's inquiry into interim remediation and construction works undertaken by the Department of Defence at Randwick Barracks was the execution of remediation works at the disposal site, particularly in relation to the removal of asbestos and other soil contaminants. At the public hearing into that matter, the State-appointed site auditor alerted the Committee to what he called "a regulatory gap" between the role of the site auditor,

who signs off on sites, and the role of the local Council and Environmental Protection Authority, who control what will be done at the site.

- 5.13 In view of this statement, the Committee recommended that an appropriate regulatory body be given responsibility for monitoring the execution of contamination remediation works to ensure that proper health, safety and environmental controls are exercised. The Committee subsequently wrote to the Hon Dr David Kemp MP, Minister for the Environment and Heritage, and the Hon Robert Debus MP, Minister for Environment, NSW requesting that the matter be placed on the agenda for the next national ministerial conference.
- 5.14 In July 2004 the Committee received a response from the Hon Robert Debus stating that the perception of a 'regulatory gap' might best be addressed through better stakeholder communication. He added that discussion of the matter at a meeting of Australia's Environment Ministers may further understanding of each jurisdiction's regulatory regimes.
- 5.15 The new federal Minister for Environment and Heritage, Senator the Hon Ian Campbell, responded to the Committee's letter in November 2004 stating that he could not see how the national conference of Environment Ministers could play a useful role in the matter. His view was that the issue would best be addressed by Defence and the NSW authorities.

## **Support**

- 5.16 The Committee's ability to fulfil its statutory obligations is in large measure attributable to the support provided by its secretariat. The Committee therefore wishes to record its appreciation for the work of its Secretary, Mrs Margaret Swieringa, and her staff.
- 5.17 The Committee also wishes to record its appreciation for other staff in the Parliament, who provide services to the Committee and its secretariat, and those officers in DoFA, who play an integral role in facilitating references and expediency motions. In this regard the Committee thanks Mr Jeff Kite for his continued support throughout 2004.

**Hon Judi Moylan MP**

Chair

16 March 2004