



# **HOUSE OF REPRESENTATIVES**

**STANDING COMMITTEE ON ENVIRONMENT, RECREATION AND THE ARTS**

**Reference: Environmental management of Commonwealth land**

**CANBERRA**

**Monday, 4 November 1996**

**OFFICIAL HANSARD REPORT**

**CANBERRA**

HOUSE OF REPRESENTATIVES  
STANDING COMMITTEE ON THE ENVIRONMENT,  
RECREATION AND THE ARTS

Members

Mr Truss (Chair)

Mr Anthony  
Mr Billson  
Mr Eoin Cameron  
Mrs Crosio  
Mr Entsch  
Mr Hockey

Mr Harry Jenkins  
Mr Langmore  
Dr Lawrence  
Mr McDougall  
Mr Martin  
Dr Southcott

The committee is to inquire into:

Review of Audit Report No. 31 of 1995-96, Environmental Management of Commonwealth Land: Site Contamination and Pollution Prevention.

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*Environmental management of Commonwealth land*

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Present

Mr Truss (Chair)

Mr Billson

Mr Harry Jenkins

Mrs Crosio

Mr McDougall

Mr Entsch

Mr Southcott

Mr Hockey

The committee met at 9.05 a.m.

Mr Truss took the chair.

**CHAIR**—I will declare open this public hearing. It is the first hearing to be held by the committee for its inquiry into the environmental management of Commonwealth land. The inquiry follows the referral to the committee by the House of Representatives of Auditor-General's report No. 31 of 1995-96, entitled *Environmental management of Commonwealth land: site contamination and pollution prevention*.

Today we will be hearing from three of the departments discussed in the audit report. The Department of Transport and Regional Development and the Department of Administrative Services are key managing agencies of Commonwealth land, and the committee will be considering their management strategies for the prevention of pollution and contamination on Commonwealth land. The Commonwealth Environment Protection Agency is also appearing later this morning. We will be interested to hear about the development of a national policy and guidelines for the effective environmental management of Commonwealth land and the prevention of site contamination and pollution.

The committee proceedings are recognised as proceedings of the parliament and warrant the same respect that proceedings in the House of Representatives demand. Witnesses are protected by parliamentary privilege in respect of the evidence they give before the committee. They will not be asked to take an oath or to make an affirmation. However, witnesses are reminded that false evidence given to a parliamentary committee can be regarded as contempt of the parliament.

The committee prefers that all evidence be given in public, but should you at any stage wish to give evidence in private you may ask to do so and the committee will give consideration to your request. I call now the representatives of the Department of Transport and Regional Development. We welcome quite a large team.

**ELLIS, Mr William Raymond, First Assistant Secretary, Corporate Management, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2601**

**HABEL, Mr Digby, Assistant Director, Policy Development, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2601**

**MARKS, Mr Stanley Fitzroy, Acting Director, Rail Enterprise, Rail Branch, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2601**

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**CHAIR**—We have received a submission from the department and have authorised its publication, but perhaps I should first ask whether there are any changes that you wish to make to the submission?

**Mr Ellis**—No.

**CHAIR**—Before we begin our questioning, I invite you to make any introductory opening remarks that you might like to make.

**Mr Ellis**—Thank you, Chairman. The department assisted ANAO in its work in producing report No. 31. We had a round of discussions and exchanges of views that I think are properly reflected in the ANAO report. We are essentially in agreement with the recommendations of the ANAO.

Our submission to your committee covered two main points. The first point we made in our submission is that we support recommendation No. 1 that EPA develop a policy position on contaminated sites and that the NHMRC guidelines for the assessment and management of contaminated sites be used as a framework document for the development of a national environment protection measure.

The second point we made in our submission refers to recommendation No. 14, which dealt with GBE accountability and oversight processes. In giving support to that recommendation, we would note that the GBEs, the agencies themselves, are best placed and best qualified to manage the day-to-day environmental

issues encountered by those agencies. Mr Chairman, if it is okay with you, as we proceed I would like to pass questions out to my colleagues here, depending on their area of expertise.

**CHAIR**—Most certainly. I note that your response to the recommendations has been that you agree in principle. Is there any reason why you have agreed only in principle?

**Mr Ellis**—In the sense that some of the recommendations were not of direct interest to us. But we did focus on the particular ones that I had mentioned—recommendations 1 and 14.

**CHAIR**—Do you actually have reservations about your willingness to implement recommendations 1 and 14?

**Dr Stephens**—Mr Chairman, our reservation extends only in so far as it took a while for us to get on the same wavelength as the audit office about the degree of oversight which was appropriate. I think Mr Ellis summed it up in that we think that the day-to-day operations of GBEs are best handled by the GBEs themselves. Obviously, if there is a problem, we would expect to follow that problem closely. If there is something that needs to be improved, for example, to get something up to best practice standards, we would look more closely at that. But our normal role would not be to try to second-guess day-to-day operations. I think there was perhaps not quite full understanding on the audit office's part about the nature of the oversight which was appropriate; so we felt it was best to just use those words 'in principle'. But it is only a minor reservation about the degree of understanding the audit office has on what we felt was possible.

**CHAIR**—Do you think there should be some central government agency that oversees contaminated land, or is it your view that each agency should be responsible for its own properties?

**Mr Ellis**—I think our general approach would be that the portfolio agencies should look after their own circumstances. We believe that the responsible minister, who is responsible for his or her portfolio, is the proper point of accountability within the framework in which the business enterprises operate for the government.

**CHAIR**—But that could lead to different standards being applied by different GBEs?

**Dr Stephens**—We would understand, as in this case, that documents like the ANZECC/NHMRC guidelines are appropriate. In some areas, perhaps there needs to be more work on specifics. Digby Habel, who is one of our environmental experts, could expand upon that. But, as far as things apply at the moment, we would work on the GBE arrangements in association with policy guidelines that came from things like ANZECC guidelines.

**Mr Habel**—Mr Chairman, in roughly 12 months time there should be a national environment protection measure to do with the assessment of contaminated sites. That measure will be drawn up in state legislation under the National Environment Protection Council guidelines, and the Commonwealth will be bound to that. So there will be a common point for the whole country in terms of assessment of contaminated sites.



**Mrs CROSIO**—How is the Commonwealth going to be bound to it under the state legislation?

**Mr Habel**—It is part of the National Environment Protection Council agreement in principle amongst the various ministers, state and Commonwealth, that that be the case. At this moment an implementation bill is being drawn up by the environment department. I understand it will come before parliament in the spring sittings next year.

**Mrs CROSIO**—It basically has to go through the Commonwealth and all the states so they have got a binding agreement.

**Mr Habel**—Only with the Commonwealth at this stage. I understand all the states—except, I think, Western Australia—have legislation in place to adopt this national environment protection measure.

**CHAIR**—Will the Commonwealth's participation in that be voluntary or compulsory?

**Mr Habel**—It will be mandated.

**CHAIR**—Mandated by Commonwealth legislation?

**Mr Habel**—That is right.

**CHAIR**—So that could have far-reaching implications for the way in which certain activities take place. I suspect the implications for the defence department might be greater than it is for Transport, for instance. Some departments may well have to make quite a lot of adjustments.

**Mr Habel**—We would have to agree with that.

**Dr Stephens**—I think Joc can answer about the FAC, but certainly the audit office felt that the FAC's approach to environment protection at airports, particularly contaminated sites, was quite well advanced. I think that was referred to—if not in the report then certainly in our discussions with them.

**CHAIR**—I think at some stage we need to go into the issue of the future of the FAC airports, particularly with privatisation. Maybe there are other questions on general issues first.

**Mrs CROSIO**—What policy direction do GBEs now have for their contaminated sites?

**Dr Stephens**—The general policy direction for GBEs comes from the Audit Act from their own enabling legislation and, more relevant to this point, the administrative guidelines which are issued by the Minister for Finance and called 'Accountability and ministerial oversight arrangements for GBEs'. There is nothing specific in those about the environment. When the Commonwealth Authorities and Companies Bill becomes an act from July next year, it will be possible for the government to require GBEs to comply with particular general policies of government. That may be relevant to the environment, although the environment has not been regarded as an example of where that section would come into play.

**Mrs CROSIO**—Is there anything in that bill spelling out the environment?

**Dr Stephens**—No, it is a higher level.

**Mrs CROSIO**—So it is almost a gentleman's agreement?

**Dr Stephens**—The general approach, until more recent developments with ANZECC guidelines and the NEPC material, was that GBEs should be subject to the same sorts of environmental laws within the states as private sector equivalents. There is not a private sector equivalent to FAC, for example, but I think it is somewhat more than a gentleman's agreement. There is certainly nothing in legislation to the degree that there is material in legislation about annual reporting requirements or corporate planning requirements or financial aspects, for example. It is not spelt out to that degree.

**Mr White**—The FAC Act is an example. It requires the FAC to operate in accordance with the policy of the government known to the corporation. So, where there is a policy or an approach in place of which the FAC is aware, it has an obligation under the legislation to act in accordance with that. When this document on environmental management of Commonwealth land came out, one of the first things we did was refer that to the managing director of the corporation so that the corporation could take that into account in the way that it goes about its day-to-day business on its airports.

**Mr McDUGALL**—In relation to your remediation activities and costs incurred, there are two areas. There is the area of remediation and cost of contamination caused by the GBE. There is also prior contamination that may have been caused before the GBE was formed in that the land was still under the department. Whose responsibility is it in regard to those two different areas? And who pays the bill?

**Mr White**—You would have to look at each circumstance to get an answer to that. In a sales context, what is normally done—and this is advice that we have been given by the office of asset sales—is that liabilities transfer with the asset. Whether that has been the case in each circumstance in the past would need to be looked at on a case by case basis.

**Mr Ellis**—In general terms, the department as we now know it does not own or control any land as such. Over recent years with the establishment of portfolio agencies like the FAC or AMSA, the responsibility in a sense transfers to those portfolio agencies as distinct from remaining with the core department.

**CHAIR**—Even though some of those agencies could well argue at a later date that perhaps they were handed a site that they were not aware was contaminated and so there is a liability. Has the Commonwealth felt that it was under any kind of duty of disclosure to the new agencies about what they were being handed?

**Mr White**—That is why I gave the sales example, because, in that context, there is a due diligence process for identifying the assets and liabilities of the organisation. In respect of other transfers from a department to a GBE, those processes may or may not have been equivalent to a sales process due diligence. I think that would depend on the circumstances, the speed with which it was done, the resources which were devoted to it and the information that was available at that time about the state of the site.

**Mr McDOUGALL**—Most town plans today would require, in the private sector, a contamination report prior to any approval being given. As best as possible, that would require the applicant to be able to give details of prior use of the land and therefore the prior potential of contamination. In most circumstances, I believe what would happen is that any remedial action would therefore be, for any contamination prior to the sale or development of the land, to the original owner of the land. Do you not feel that it is applicable to the government department as well?

**Mr Ellis**—In general terms, the decision to set up a statutory agency, whether it was a GBE or not, was taken as a policy decision. Some of these were set up in 1987-88—from the more recent ones that I can recall. To my recollection, I do not recall the notion that the Commonwealth was selling or entered into the consideration. The consideration was more or less to separate the delivery of services and the financial requirements for running that particular operation from the normal ministry of government—the notion of the residual department. I do not recall any notion of a sales process, internally, within government. While I might be wrong, I do not recall that the processes that occurred went through to the level of consideration that you, I think, have just outlined.

**Mr McDOUGALL**—What happens if you do sell land in the future?

**Mr Ellis**—The model that would be applied would be along the lines Mr White has just outlined in terms of a due diligence process for the airports. If land is sold by any of the agencies, I think they would take contemporary concerns into account.

**Mr McDOUGALL**—And abide by any local government or state government planning laws.

**Mr White**—I think that does depend on the site in question. You asked about selling. There are many sites that are Commonwealth owned at the moment. If they were sold, they would become somebody's private property and automatically subject to state law. If, on the other hand—

**Mrs CROSIO**—Before or after the sale? That, I think, is the question?

**Mr White**—At the time of sale they become subject, because at that moment they cease to be Commonwealth land.

**Mrs CROSIO**—But they are not subject, and you are saying before the sale—

**Mr White**—They would not be subject before because they are Commonwealth land—unless there is an arrangement whereby the law of the state has agreed to apply to that land. That is a distinction in the case of a sale. In the airports leasing context, that is not happening. The airports are being leased; they are not being sold. The land remains Commonwealth land and the extent to which state law applies will depend on the arrangements that are put in place by the Commonwealth at that site. Mr Milczarek pointed out that, in the case of Badgerys Creek, the Commonwealth is actually going through a clean-up process for that site prior to the establishment of an airport at that location.

**Mr Ellis**—I have got some advice here that says that, when AMSA, for example, disposes of a

commercial property, it undertakes environmental audits and remediates where necessary to accord with state and territory legislation and local council by-laws. The cost of such remediation is recovered from the profits of the sale. That is one example of one statutory authority.

**Mr BILLSON**—Is it your sense that the department and the GBEs are well-informed about the condition of the land that they manage or oversee? Assuming that they are and there is no presence of any requirement to rectify any concerns in your business planning cycle, are the NEPMs anticipated to bring a new responsibility or a new burden onto the GBEs, which the GBEs are preparing for?

**Mr White**—I will answer that in respect of airports in the first instance. I think the FAC is well aware of the condition of its land. It is also well aware of the NEPC and NEPM process and the way in which that might interact with its responsibilities. I think it might be helpful if I just run through, very briefly, what is going on with airport environmental management to give you a bit of a setting for the questions in that area.

**CHAIR**—Certainly, we do need to deal with each of these areas individually. I was aiming at the present time to talk in more general terms but, if members have exhausted their questions in that regard, I am more than happy for us to proceed.

**Mr BILLSON**—Surely the other agencies could give us a sense. No disrespect to the other agencies, but perhaps the airport and its corporation might be the leading light amongst your GBE colleagues. I would be interested to know what the impression is across the other areas.

**Mr Ellis**—As I understand it, the first part of your question was: do the agencies understand what they have in their control?

**Mr BILLSON**—Yes.

**Mr Ellis**—We will come to the FAC. In terms of Australian National, they have arranged for a consultant, Rust PPK, to work through an environmental effect register. So they are working through—

**Mrs CROSIO**—That happened before or after the audit?

**Mr Ellis**—I do not know.

**Mr Marks**—I think that work commenced before the audit.

**Mr Ellis**—As a basis of that work, they are developing a works program to work through their holdings when they identify problems. In terms of AMSA, our understanding is that they have a well-understood idea of what their land-holdings are and any problems they might have.

**Mr BILLSON**—They have a plan to address those things as well?

**Mr Ellis**—Yes, as I understand it. Those are the three main land-holdings that we are aware of.

**Mr Habel**—It should be known in the case of AMSA that the environmental problems are quite minor in view of the fact that it is mainly lighthouses and what has happened as a result of lighthouse operation over the years. The issues are quite minor, in relative terms at least.

**Dr SOUTHCOTT**—I just want to clarify it. What sort of role does the department have in overseeing the environmental activities of the GBEs?

**Dr Stephens**—Perhaps I can answer that, Mr Chairman. The relationship between the government and GBEs, or the government and former GBEs in the case of AMSA, is essentially one that is based around the corporate planning process. Ideally, the department, on behalf of the minister, would be involved in setting up a corporate plan, discussing drafts with the organisation. The minister then responds to the corporate plan. The next stage is a requirement for interim reports, and this is from GBEs, which tend to focus mainly on financial things—although it is possible for the minister to seek and the GBE to provide advice at those interim times, usually every six months, on how things are going.

In the annual report the organisation is required to let the government know what things have been happening. Under new arrangements coming in under the CAC Bill, the link between what the organisation has attempted to do and what it has actually done will be made a lot stronger.

Under most of the enabling acts, at the moment there is a requirement that the organisation keeps the minister informed about problems that have arisen or things that may affect the capacity to achieve the objectives in the corporate plan. We would expect in normal circumstances that the people in divisions who oversight the GBEs and the GBEs would be in fairly regular contact. If something became notorious or it was known to be an area that needed watching or improving, people like Mr Marks and Mr White and Mr Quinlivan, who deal with the GBEs, would be in that case monitoring that. Our normal term for this relationship is ‘oversight’ because, as I said before, we do not attempt to try to second-guess them from one day to the next.

**Dr SOUTHCOTT**—Are their projects independently audited for things such as the environment?

**Dr Stephens**—No. Once or twice in the past, corporate plans have been independently looked at by consultants, but generally not. The other angle I should have mentioned is that it is now possible under all of our legislation for a minister to write to—and ministers write to GBEs in any case—a GBE or AMSA or CASA and set out the government’s expectations of these bodies.

So it would be possible for a minister who was concerned about an issue to do with the environment or something similar to write to the organisation and say, ‘These are the concerns of the government. This is what I expect you to do, and I would like you to report specifically on these items in your corporate plan and through other means.’ So there are means for the government to make clear to GBEs and AMSA and CASA what its expectations are. There are also means, through public servants on the government’s behalf, to keep track of the process. The day-to-day operations are a matter for the GBEs.

**Mr BILLSON**—So, with those reports, would they hook by Digby to cast an environmental eye over them in formulating the advice to the minister on whether to sign off on the business plans and the strategic plans of the GBE?

**Dr Stephens**—If we were looking at a corporate plan, it would be incumbent on us to know the context. We try to see corporate plans as the tip of the iceberg in the sense that they are driven by considerations in the environment of the organisation, not just commercial considerations. If we felt that a factor in the environment in a general sense, not the environmental management sense, had been left aside and had not been considered properly in putting together that plan, it would be incumbent upon us to go back to the GBE and say, ‘You have left something out.’

**Mr BILLSON**—If, say, the environment minister was aware of a nightmare that was not being addressed within the portfolio, the minister’s decision to sign off or not sign off on the corporate plan would amount to a decision that could activate the impact of proposals legislation. Is that correct?

**Dr Stephens**—At the moment, there is not a formal requirement that the Minister for the Environment be involved in the corporate planning process. It is essentially the portfolio minister and the Minister for Finance and then the second tier. The implication of the arrangements is that we need the agreement of the Minister for Finance before a corporate plan proceeds. The second tier is the Treasurer, Prime Minister and Minister for Industrial Relations, who may present views if they wish. The Minister for the Environment is not in that second tier.

**Mr BILLSON**—If Mr Marks’s audit turned up something, given the GBE’s financial position, that was too hot to handle and arguably was not being addressed, there is a chance that that might not be addressed.

**Dr Stephens**—I think it would be unlikely from what you described. I am not quite sure.

**Mr BILLSON**—I do not know what the audit would turn up.

**Mr Marks**—I would think that in those circumstances it would not just be a matter of what is in the corporate plan. What has been described so far are certain formal structures which exist governing relations between ministers and GBEs. In fact, the oversight role that we fulfil involves very frequent contact with GBEs on a whole host of subjects of which, particularly in recent years, this has been one.

The GBEs are aware—AN certainly is—of their obligations under this. A number of issues have arisen, and they have been drawn to the attention of the minister and the department. We liaise with them very frequently on these matters in writing and much more often on the telephone. That is how it happens. It would be very hard for a major issue to arise without the department and the minister getting to know about it.

**CHAIR**—Can we move on?

**Mr McDOUGALL**—How good and how well known are your contaminated sites? Do you have a

good list? Do you know what your sites are and what is the degree of contamination, both of the department and of your GBEs? Has a full audit been done?

**Mr Ellis**—The answer is that a full audit has not been done, to my knowledge. I believe that in the case of the particular agencies the degree of confidence that they have in the quality of their information is probably variable. I think they are probably at different stages of their level of understanding. I think the work of the ANAO and the focus of this committee will help them better understand their requirements.

**Mr White**—I would like to amplify that with FAC's case. They started seriously looking at environmental management several years ago. There were guidelines issued by head office as to what was to be done at each airport. There were audits undertaken, including by consultants, at most of the FAC locations, and then environment management plans prepared for each airport. So there was an auditing process involved in that, and the FACs then continued to work on a set of by-laws which would help deal with the circumstances they found. I think the answer to the question in respect of the FACs is that they are reasonably well aware. There has been a fairly intensive amount of work done over the last three years or so to get them to that point.

**Mr Marks**—In relation to AN, yes, they have a quite good idea of what is there. The audit has been fairly comprehensive. You cannot guarantee that something has not been missed, but a lot of work has been done and more work is continuing.

**CHAIR**—In places like airports and railways, virtually every site would be contaminated, wouldn't they—where you have fuel and the use of chemicals and that sort of thing? Mr White, you were going to give us some details about the FAC's actions and I interrupted. I think, because of the passage of time, we now need to move on. I think the committee would be interested in the work that is being done in relation to airports, and also AN. Perhaps you might like to continue where I interrupted you before.

**Mr White**—Thank you. I have given part of that information in answer to the previous question. It is a process which has been initiated by the airports and by FAC at head office level, and then working through an environmental management officer at head office to each of the airports themselves and getting an understanding of what the condition is at the sites and what needs to be done to improve them.

The other thing I thought might be worth mentioning in relation to airports is that all the arrangements under consideration by the FAC are ones that they will be responsible for until the airports are leased. Post-leasing, there will be a series of different arrangements put into place which I can go into now, if you like.

**CHAIR**—Yes, in so far as they affect the matters in the audit.

**Mr White**—What we have been doing in the department over the last year or two is preparing for the transfer of ownership of airports from a government business enterprise to private sector operations. To do that, we have focused on separating out the regulatory functions of government from the business and commercial operations of the private sector.

The Airports Act, which has recently been passed by the parliament, gives a broad regulatory

framework and enables the Commonwealth to continue to regulate environmental management at the major airports post-leasing. There are provisions in the Airports Act that relate to environment strategies. Airport operators need to develop environment strategies for assessing the condition of the sites and assessing the environmental impacts associated with airport operations and for improving those over time with five-year strategies.

The Airports Act also gives the government the ability to develop airport regulations. One of the areas in which it can do that is in relation to environmental standards—the sorts of standards to be applied to these sites post-leasing. The department has recently been consulting quite widely on the regulations which will be put in place to set the standards, if you like, for this land post-leasing. I thought it might be of some interest to the committee if I could pass over a copy of the consultation document that has been sent out on that. That is out with about 70 or 80 interested parties at the moment. It essentially picks up the standards and approaches that are embodied in the FAC's draft by-laws that they have been working on for some time and turns those into a form that is more consistent with our normal Commonwealth regulations. So, post-leasing, the airport operators will be taking on the site and then undertaking environmental management at the site in accordance with both the provisions of the act and the provisions of the airport environment regulations.

I will mention a couple of other things to give you an idea of the extent of work that has been done. The Office of Asset Sales, known previously as the Airport Sales Task Force, also needed to explore the condition of the airports that are going to be leased in the first phase—that is, Melbourne, Brisbane and Perth airports—so that it was able, as part of its due diligence processes, to pass on advice to potential purchasers about what it was that they would be taking on.

As part of that work they commissioned studies by consultants to consider the material that had been worked up by the FAC and the information that was now around on NEPC-NEPM processes and the environment regs, and other standards like ANZECC that were available for application. Those reports have recently been completed, reports that canvassed the condition of the sites at the phase 1 airports—that is Melbourne, Brisbane and Perth. So, on the airport side, there really has been quite a lot of work done, as I said, over a number of years, and by different agencies, to establish both the condition of the sites and a regime for ensuring that environmental outcomes are improved over time.

**CHAIR**—So, to make it quite clear, the new airport lessees will be responsible for contamination on the sites, or will the residual government agencies?

**Mr White**—That is a sales matter which is still to be finalised in the sense that the sales task force has not announced a position on that matter, but it is obviously one of considerable importance to both the Commonwealth and potential lessees.

**CHAIR**—But there is certain contamination that will inevitably be at the airport and which you may in fact do nothing about cleaning up. For instance—

**Mrs CROSIO**—Or may not even have discovered at this stage.

**CHAIR**—Yes. For instance, you have got an airport, and no doubt there are extensive fuel tanks



which would stay there but, if ever you closed the airport down, you would have a big clean-up job.

**Mr White**—Absolutely.

**CHAIR**—But no-one is going to clean it up while it is not doing any damage and while it is an ongoing part of the airport operations. Airports tended to be built on sites which were not particularly desirable for other purposes initially, so there could be all sorts of things underneath concrete.

**Mr White**—That is clearly possible. The first of those reports that I talked about that I had a look at—which is in relation to Perth because there has been a fair bit of attention to the environmental circumstances of Perth—actually suggested that the extent of contamination there was not, in terms of underground storage tanks and leakage and things like that, particularly extensive.

The circumstances may be different at other airports, but there was certainly reference to underground storage tanks and to service station sites and things like that. And there was also a bit of attention to water run-off and so on separately from the soil contamination side, but really the report was not of the nature of ‘This is a major concern that is going to interfere with everything else that is going on’. It was not like that at all.

**CHAIR**—And a third tier would be if the new lessees chose to sublet some of the land or even sell off. I am not sure whether they would be able to do that.

**Mr White**—Sublease.

**CHAIR**—Yes, for factories or some other purpose, then presumably somebody is going to have to take responsibility for that site being reasonably contaminant free.

**Mr White**—Under the approach in the airports regulations there would be a hierarchy. If somebody takes on a lease of a site and they pollute it, they are the polluter. It is a polluter pays clean-up; that is fairly clear. If the polluter cannot be found then the current land-holder—typically, this applies in state locations as well—the person who has ownership of or who controls the land at the time tends to be the next person that you look to. Then there is the hierarchy that we will work through right down to the owner of the site—airport lessee.

**CHAIR**—Yes, but if the new lessee takes initiatives to utilise pieces of their site by subletting it to someone else, who is going to be responsible then for any contamination?

**Mr White**—If it is new contamination then, clearly, the person—

**CHAIR**—No, I am talking about something that is there now.

**Mr White**—That is what I am saying. It is something that is fairly delicately balanced in the sales process. As soon as a decision has been made on that, I would be happy to pass that on.

**Mrs CROSIO**—If I could follow your questioning one step further. There obviously could be—I am not saying anyone today is responsible for it; it could have been from yesterday—pollutants there that no-one knows about. How do you make an assessment throughout the airport areas; do you do soil testing; do you monitor areas to see if there is any leaching coming out? I am just mentally thinking: here is an airport you are going to develop, the site was not good for anything else, so you moved in, dug all the soil and covered it all over in the past. No-one really knows, do they, unless obvious testing has been done in the surrounding areas?

**Mr White**—I think it is fair to say that you can never be certain about the full extent of environmental damage but, at the same time, there are quite good records as to the activities that have been carried out in parts of that site going back for quite a long way. I do remember that, back in 1991 when we were doing some work on the future of Essendon airport in the context of the Port Phillip Regional Airport and Airspace Study, these sorts of issues came up. There was checking back done on what happened at the site over a period of time. People there knew where fire practices had occurred, where people had spilt fuel and things like that. They knew where the old garbage dumps were and they knew where the underground storage tanks were.

**Mrs CROSIO**—But knowing it and testing it are two different things, aren't they? Had they done any testing on it?

**Mr White**—They are different things. I think at some locations there has been testing done where there is a particular concern.

**Mrs CROSIO**—Only if there is a concern. In other words, I am really trying to say that, when you are getting ready for sale, none of that is taking place at the moment. So you really do not have a proper chart from an environmental aspect as to how the land from the past has been affected that could be then put in the particular leasing document. There is nothing there—?

**Mr White**—No, there is not a testing basis for that, with coring and all that sort of thing. To fully establish a sample basis you would need very extensive testing to be done, which is then refined over time and so on. No, that has not been done. But the information that is around, which can run to hundreds of documents, has been researched. The material that has come from those hundreds of documents in some cases is collated and collected. They will be available so that people who are interested in acquiring sites know of the information that is around. The only other thing that I can really add from the advice we have is that, in the past where sales have proceeded, the purchaser has tended to take on the liability of the sites as well as the assets of the sites.

**Mr BILLSON**—With the national environment protection measure work, is that likely to deal the portfolio more into these questions or deal them out? That is, are you anticipating that it will place greater emphasis on the lessee, the GBE or the portfolio? Is it likely to clarify things or make it even more confusing than it is at present?

**Mr Habel**—What is likely to happen is that the operators on the ground will become quite cognisant with the state law and will operate accordingly. So, by and large, that responsibility will go immediately to

the people on the ground. If something goes wrong, I guess we would become more interested in it.

**Mr BILLSON**—So you think that proximity principle will apply: the nearer you are to the action, the more of the can you are carrying.

**Mr Habel**—That is right, but bear in mind that each state will have a different approach to applying the NEPM. It will be that specific.

**CHAIR**—Perhaps we could move then on to Australian National, which actually got a special mention in the audit report about the workshops in South Australia. I wonder whether you have anything by way of an update to report on what has happened in relation to the clean-up there.

**Mr Marks**—The CSIRO has reported, as is stated in that report, and the government has commenced negotiating with South Australia over the details of the clean-up. I guess that is the summary of it.

**CHAIR**—So there has been no headway yet?

**Mr Marks**—No, no headway.

**Mrs CROSIO**—No Commonwealth funding allocated?

**Mr Marks**—Yes, there is \$2 million in the budget at this stage, and some additional funding may be available from the Commonwealth AN reform package.

**CHAIR**—Except that the CSIRO report seemed to suggest it was going to take \$5 million to fix it. Is this \$2 million an interim advance, or is South Australia going to put in the rest? Where will the additional funding come from?

**Mr Quinlivan**—That is not yet settled. As you are probably aware, the government is currently considering the future of Australian National with possibly some quite extensive reforms of AN. This is an issue which will fall out of that process. The reform of AN will be an expensive process. There are quite a number of contingent liabilities, of which this is one, that will need to be settled in that process, and the Commonwealth will need to fund those. But the precise details have not been settled. A package from the minister is likely to be considered by the cabinet quite soon.

**CHAIR**—You are saying the Commonwealth will have to fund those. Going back to the discussions we were having previously, presumably a fair degree of that contamination was actually inherited by the Commonwealth when they took it over from South Australia in the first place?

**Mr Quinlivan**—Quite so, and Tasmania.

**CHAIR**—Is that an argument that the Commonwealth is putting to South Australia?

**Mr Quinlivan**—It is an argument that will doubtless be brought to the table. Unfortunately, there was

not an examination of the extent of that environmental contamination as at the time of transfer; so it is an area where there will be a good deal of argument about responsibility. The ANAO has made that observation in relation to Islington but, unfortunately, that was more than 20 years ago. It is certainly something that ought to be done but was not done in that case, and very little can be done about it now, of course.

**CHAIR**—Because of the use by railway departments around the country of ground sterilants and all sorts of things to protect their rail line, there is likely to be an enormous amount of contamination associated with railways—not just Commonwealth ones, but in every state.

**Mr Marks**—I should imagine that is true, yes.

**CHAIR**—And almost impossible to fix up, one would imagine.

**Mr Marks**—It is very difficult.

**Mr Quinlivan**—It is all a question of costs and cost benefit. In some cases, it is clearly going to be important to remediate sites because the sites are continuing to be used for railway operations; in others, where the sites are not used for any purpose at all, the most effective measure might be to fence it off and not remediate it until the land is to be used for some productive purpose. That is an important issue for the railways, because of the amount of land involved.

**CHAIR**—Do you have any idea as to what the cost may be of rehabilitating the contaminated sites of Australian National?

**Mr Quinlivan**—As Mr Ellis mentioned earlier, AN has commissioned an environmental effects register. The consultant has been undertaking a fairly extensive program of testing to determine the sites and the extent of environmental contamination. They are providing advice to AN on the most suitable form of remediation and the likely costs of that. That work is ongoing. I am not aware at this time that the consultant or AN are in a position to give an aggregate estimate of the costs. In some cases it will vary on the assumptions you make about further land use for the reason I mentioned earlier. But there is no doubt that there is extensive contamination and that the overall costs, if they were to be remediated by the Commonwealth, would be significant.

**CHAIR**—Do you have any idea when that consultant's report will be completed?

**Mr Marks**—The first preliminary report has been completed. It identified a large number of sites where there is contamination. It broke them down into sites which can be fixed relatively quickly and easily and others where more work is required. I should imagine that the process of going through all the sites would have quite a deal of time to go yet. By the nature of it, it is fairly open ended.

**Mr Quinlivan**—As I understand it, the consultant provided a document to the commission which they felt was the first round of assessments. The commission had some reservations about that, both in terms of the breadth and the detailed information that had been collected on some of the sites. The two parties are dealing with those reservations at the moment, so there is no document which exists at present that

summarises the state of knowledge. We would be hopeful that, within the next six months, that work would move to a pretty advanced stage. Certainly on some sites there is quite a deal of knowledge about the extent of the contamination and the likely cost. Islington is one, of course.

**Dr SOUTHCOTT**—Does AN have any reference to environmental issues in its corporate plan?

**Mr Quinlivan**—No. I should qualify that by saying that AN is very aware that environmental contamination is an important contingent liability for the organisation. That is why they have been putting so much effort into understanding what that contingent liability is.

**Dr SOUTHCOTT**—Has the latest report—1995-96—come out for AN?

**Mr Quinlivan**—No.

**Dr SOUTHCOTT**—In the report before it there was no mention of environmental issues—according to the audit report.

**Mr Quinlivan**—That is right.

**CHAIR**—This is obviously going to be a major headache, if AN does not have enough already.

**Mr BILLSON**—Are other parties being identified through that identification process as contributors to solving the problems that are being discovered or has it been left pretty much to AN and AN alone?

**Mr Marks**—Apart from the Islington site—which actually predates, to a large degree, the audit that we talked about—at this stage it is a process of identifying the sites where there is contamination and determining the nature and extent of the remediation required. It has not gone on to the next stage of looking at who should clean it up.

**Mr Quinlivan**—I think the old rule about possession being nine-tenths of the law is probably going to apply to a pretty significant extent here, given the passage of time.

**Mr BILLSON**—I sort of get that sense, but I thought you might have been shopping around for some history to combat it.

**Mr Quinlivan**—We are certainly aware of the issue and, as I say, it will be brought to the table when these things are settled. But I am not optimistic about us achieving much headway on that one.

**Mrs CROSIO**—You may not be able to answer this question. You have already mentioned that the Islington site was before the audit even began, that you are aware of the contamination, that you are aware it could have gone back over 20 years, and that you are roughly aware of the costs involved to clean it up. Where would the soil be taken? Not to some airport site, I hope.

**Mr Marks**—From Islington you mean?

**Mrs CROSIO**—Yes.

**Mr Marks**—I guess there are four options. The most likely one is an on-site repository. That essentially means that you dig a large hole on the site, you seal it with special geotechnic textiles, you put the contaminant in it, and then you seal it with concrete. This is a fairly commonly used technique. That is most likely what will happen at Islington, although no decision has been taken. The question of taking it off and dumping it elsewhere was considered. It is extremely expensive and, in itself, it is an environmental hazard because you would have God knows how many trucks carting all this environmentally contaminated soil through metropolitan Adelaide.

**Mrs CROSIO**—And there is no heat process or anything like that that can be done to treat it?

**Mr Marks**—No. The contamination consists of asbestos and a number of heavy metals, and heat treatment is not relevant in any of those cases. It is dispersed very thinly through the soil in the main, with pockets of it here and there. Mostly it is just soil. It is a 12-acre site and the stuff is here and there on it. It would be extremely difficult to isolate.

**Mrs CROSIO**—Using that as an example and realising that over 20 or 30 years ago people were not as mindful as they are today, it could be all over Australia at different sites at airport authorities.

**Mr Marks**—I am sure that a lot of agencies have this problem, especially railways.

**Mr Quinlivan**—The key question is what you envisage the land being used for after it is remediated, because that determines the nature of the remediation and the standard to which you need to remediate the land. If it is residential, obviously it is going to be a very expensive process because you need to restore it to a pristine form. If it is to be a car park, then you have an entirely different objective.

**CHAIR**—Perhaps we can briefly touch on AMSA, although I think probably most would agree that lighthouse sites are fairly unlikely to be seriously contaminated. I note that they are to be disposed of on a no-loss basis. I do not know whether I have the terminology correct. Is it the intention to try to hand these sites over to the states or to other agencies and they take them as is and where is?

**Mr Ellis**—We did not bring an AMSA expert with us, but if I can refer to my brief it might answer the question. The transfer of these properties is conditional upon the states indemnifying AMSA in regard to liability for contamination. So, in a sense, that will be brokered as part of the deal.

**CHAIR**—Do you have any idea whether you are handing over a risk of any substance?

**Mr Habel**—The risk is minor in all cases, and it would appear to be only New South Wales and Queensland. The sorts of things that end up on these sites are in some cases asbestos, but it is usually fuel oil due to operations of old lighthouses. Occasionally, I understand there is some mercury as a result of some operation, but the mercury is not something you throw away. It is very valuable and the extent of that is quite minor. In total, I think you are looking at about 13 sites in New South Wales and Queensland.

**Mr BILLSON**—My understanding in Victoria is that it was a non-issue. When lighthouses were being transferred, it was just a consideration.

**CHAIR**—Some of them are some of the most beautiful sites in the country.

**Mr HOCKEY**—You say that there will be no compensation provided to the states. Certainly, in relation to some sites, there is going to be a degree of cost associated with remediation works. I understand the states in some cases are rejecting the notion that they should have to accept the sites if there is work required. They are also inheriting some of the possession problems associated with the sites. For example, what is AMSA's position in relation to Pittwater Barrenjoey lighthouse and any contingent liabilities, and the fact that the states will not take them?

**Mr Ellis**—Mr Chairman, we are from the department but, because we did not have a departmental expert, we have asked Brian Munro from AMSA to help us with points of detail. If it is suitable for the committee, I would ask Mr Munro to come to the table.

**CHAIR**—That would be appreciated.

**Mr Munro**—One of the things I am responsible for is AMSA's properties and the control of property. We are currently endeavouring to dispose of the lighthouse sites that were previously manned and are no longer manned. We have disposed of the sites in Victoria and South Australia at this stage. The basis of disposal was that the state would indemnify AMSA on the basis that we would provide the property for no value. We are currently trying to settle arrangements with New South Wales and Queensland. Part of the in principle agreement that we have reached is that we undertake an audit of each of the sites to determine what level of contamination, if any, is there. And then at that stage we will discuss who remediates or whether we make a contribution.

**CHAIR**—But assuming there is a cost involved in remedial work, do I take it that your policy then would be that you would want to recover that from the states in relation to the purchase price of the site?

**Mr Munro**—Generally speaking, where we are selling property our policy has been to recover it from the proceeds of sale. In this case, obviously, there are no proceeds. At the lighthouse stations the contamination generally is quite low. Normally—as I think was mentioned—there is minor asbestos where it has been used as building material and it may have been discarded. There were some mercury baths for the rotating beacon. Of course, I think in all cases it has now been removed totally because it is a valuable substance.

There has been a lot of storage of petroleum products to run generators on the site and, in a lot of cases, that still remains. I think it really depends on what contamination is left at the site as to what sort of arrangement we get into with the states if we need to. Where there is petroleum contamination because we are still storing petroleum there, I would expect that would be accepted by the state. If there has been some asbestos removed from buildings and stored on the site or dumped, then I think if it is not stored safely it would be our responsibility to remove it.

**CHAIR**—Thank you, gentlemen, for appearing before the committee. You gave us a document entitled *Airport (Environment Protection) Regulations*—the draft regulations. I would suggest this be taken as exhibit No. 1. Are there any objections? There being no objections, it is so ordered. You have the honour of presenting our first exhibit.

**Mr White**—Those draft regulations are out for public comment at the moment. We have asked for comments this week. If the committee has any view on any aspects of those, we would be very pleased to have that advice.

**CHAIR**—It is fairly unlikely the committee would come to a view on them within the next week since we are only beginning receipt of evidence. But we would certainly be interested in any update or progress on those regulations if you have made headway prior to the committee completing its inquiry. I think that also applies to the environment audit from your consultants in relation to Australian National. If there is any additional information that might be helpful to the committee over the next month or so we would certainly be interested to be kept informed.



[10.09 a.m.]

**ADAMCZYK, Mr Zygmunt, Technical Director, Department of Administrative Services Centre for Environmental Management, Level 6, D Building, World Trade Centre, Victoria 3005**

**BOX, Mrs Coleen, SOG B, Public Interest and Social Purpose Section, Domestic Property Group, Estate Management Branch, Department of Administrative Services, Sirius Building, Ground Floor, A Block, Furzer Street, Phillip, Australian Capital Territory 2601**

**DEEGAN, Mr Michael, Estate Manager, Estate Management Branch, Domestic Property Group, Department of Administrative Services, 111 Alinga Street, Civic, Australian Capital Territory**

**CHAIR**—I welcome the representatives of the Department of Administrative Services. We have received a submission from you and authorised its publication. Are there any changes that you would like to make to the submission. If not, before I invite questions, do you wish to make an opening statement?

**Mr Deegan**—We simply indicate that the property within the portfolio looked after by the Department of Administrative Services is under some change. The new government has asked for a review of its property holdings. Within the commercial office estate, you will have seen that we are looking to dispose of a number of properties this year with further consideration being given to the rest of that estate by the newly established Commonwealth property committee.

The other two parts of the estate that we look after, to some extent, are the industrial and special purpose properties—they are listed on the books of the Estate Management Branch, but the occupying agencies are responsible for the day-to-day management of those; there are some issues there for this committee to perhaps consider—and the public interest estate. There are some 306 such properties across the country, such as former rifle ranges, tips, heritage sites and others, that we endeavour to look after. We are in the process of undertaking a desktop audit of the public interest estate properties and where appropriate further research will be undertaken. Flowing on from the audit report, we will try to implement an environmental management system across that public interest estate.

**CHAIR**—In your submission you express support for the development of a Commonwealth policy on contaminated sites. The Environment Protection Agency has told us that they do not have the resources to do it. In practice, how is that going to happen?

**Mr Deegan**—I think there is an obligation, at least on our part, to implement best practice, as the National Audit Office has recommended, on our properties. My branch is also responsible for chairing the coordination council on the release of Commonwealth land. Within that process, I think we will have an opportunity to address some of those environmental management issues—particularly where properties are moving from the Commonwealth into the private sector.

**CHAIR**—Do you currently have a policy about the sale of contaminated land? Do you believe you have an obligation to clean it up before you sell it or is that not stated?

**Mrs Box**—It is not stated per se at this stage, but we are working towards it. Again, this is part of the

whole process of the changed approach to Commonwealth land. There is a far more active process of actually disposing of land that is generally surplus to the Commonwealth's needs.

Within the industrial and special purpose estate, that estate comes back to us from agencies when it is no longer surplus. We look to do a contamination assessment on that property before it is sold, again in line with its future usage and remediate it where possible. We try to seek a balance between the return to the Commonwealth on the sale of the property and the cost of remediation. As we get further into the discussion, you will find that the cost of remediation is not yet known for some of the properties. When we do go to sell the land we are certainly conscious of the contamination and do a report on that. It has an impact on the potential sale price.

**CHAIR**—Do you have any idea what the Commonwealth's potential liability might be on contaminated sites?

**Mr Deegan**—It depends on the approach you take. If you are not seeking to dispose of them, you can mothball the sites if necessary, which is obviously a cheaper process than a full remediation. Some sites will not be up for immediate sale or sale in the near future and they will be cheaper to manage. Those properties that we are seeking to divest ourselves of, particularly in the public interest estate, we will need to assess on a risk management basis how much of the remediation we might want to undertake, or transfer that risk in a full due diligence process to the private sector.

For example, in the middle of the sale of one property in Melbourne we have given out a list of all the documents that we have and the tenderers have been given the opportunity to undertake, should they wish to, a due diligence process and that will obviously affect the final price. We are trying to balance those needs. It is an interesting role.

**CHAIR**—How many tips are there in the public interest?

**Mr Deegan**—There is a site at Lucas Heights in Sydney, opposite the ANSTO establishment, which was leased out to the private sector. The controls there were not what they might have been. That site is now fenced off and we are looking at a remediation program for that site. It is back under direct Commonwealth control.

**Mr McDOUGALL**—Would it be fair to say that you do not have a full audit on all your land and you do not know to what extent it is contaminated?

**Mr Deegan**—We are in that process. I suppose one of the advantages that we have at the moment is that the former Australian estate management group was set up on a regional basis. These properties were looked after from each capital city. By coordinating that material centrally, we were able to start putting together a full list of all the properties. The desktop audit will establish the basic areas that we will need to look at. We are in the process of doing a full study with DASCEM on some of those sites.

**CHAIR**—A number of the states have done inventories of contaminated sites. So Commonwealth properties were not included on their lists?

**Mr Deegan**—No. In this year's budget the government announced the formation of a property register for all Commonwealth owned property. That responsibility falls to my branch as well. We will pick those sorts of issues up in the formation of that register.

**Mr HOCKEY**—How can you value a site without taking into account any environmental remediation that is necessary?

**Mr Deegan**—I think in the process of the valuation of this estate that has been a difficult issue. As we move to divest ourselves of particular properties, new valuations are undertaken and as part of the valuation process you need to assess the types of material on the site and the possible cost of remediation. We have a couple of sites that will need a fair degree of investigation. For others, most of the information is reasonably well known and can be checked during the process.

**Mr HOCKEY**—If there is, for example, a Defence Force site in my electorate that is being sold and a full environmental audit has not been done of the site, but the Department of Defence says that it has an idea what the sale value of the site is, how can that be so given that you are not fully aware of the extent of the contamination and the potential costs of the remediation?

**Mr Deegan**—There are two parts to the answer. Defence is responsible for their own land holdings.

**Mr HOCKEY**—I can use Lucas Heights if you like.

**Mr Deegan**—With Lucas Heights, the IWC site, which we look after, would not be suitable for sale in the immediate future. The valuation would be more likely negative. We have a number of sites with a negative value based on our research to date.

**Mr HOCKEY**—Is that based on a certain degree of assessment of the environmental remediation necessary?

**Mr Deegan**—There has been considerable assessment on a large number of properties. What we are trying to do at the moment is complete that assessment to give a full picture to our minister on exactly the state of play. The valuation issues are central to that process. We use both the Australian Valuation Office and private sector valuers in considering those issues. In some cases, you have to go back and do further environmental exploration to determine the extent of the damage. If you are seeking to sell a greenfield site in Sydney for residential development, you would need to have a very thorough idea of the extent of contamination and the valuation would reflect that. We update the valuations accordingly.

**Mr BILLSON**—The national environment protection measure was raised by your colleagues earlier. The idea of a proximity principle is something that I suspect would appeal to your agency where you are acting as landlords for another government agency. Does that carry through to the remediation of a site? If there is a proposition of a surplus and it is coming back your way, is there any pressure put on where it has come from to do a bit before they hand it over?

**Mr Deegan**—We attempt to apply pressure. The Department of Finance is also interested in those results, where those properties may then be put up for sale. At the moment, some of those issues are handled

directly by us by funding out of a particular bucket we have for those estate management expenses. At the end of the day, they may be internal matters, but they can be funded from our branch should that need arise.

**Mr BILLSON**—What you were describing before was a process which has a bit of give and take, where you end up with a net result, which I think should be supported. Are you in a position to influence the formulation of the NEPM along those lines; to talk about the disposal of government property and some principles about how that is carried out?

**Mr Deegan**—We have reported to the newly created Commonwealth property committee on the need, with respect to probity issues, environmental and heritage issues, for a set of guidelines for agencies on the sale of properties. We are in the process of working on that at the moment with other elements of the domestic property group.

**Mr BILLSON**—Does the evaluation extend to endangered or listed species?

**Mr Deegan**—Yes it does. We are obliged, under the heritage act, for our minister to consider those issues as part of our sales process and to consult his colleague the Minister for the Environment.

**Mr BILLSON**—So when you are doing that report, you are looking for communities that have some environmental value that will colour the purchaser's capacity to do something with the land?

**Mr Deegan**—There are often competing needs from the local community about the use of some of these sites in the future. As part of the ANZECC guidelines, there is a call for public consultation, which also draws out some of those issues that people in Canberra may not have fully appreciated.

**Mr BILLSON**—Does the indicative zoning go to site development planning concepts that have been worked through with the local authorities? Is that the point that you are alluding to?

**Mr Deegan**—Yes, in consultation with the local council or state government, whatever is necessary. The sites that are remaining within the public interest estate that have some, or significant, contamination have a whole host of other community sensitive issues attached to them as well.

**Mr McDOUGALL**—What do you mean by indicative rezoning?

**Mr Deegan**—Part of the process of trying to dispose of sites and return the best possible result to the taxpayer is to determine whether a site can be sold where there is some approval from perhaps the local council for a rezoning process. This is something that we are still working on. There are a number of sites where we are working with local councils for an understanding about that rezoning potential, which can then be banked as a legal document so that a purchaser can take that into consideration in the purchase price.

**Mr McDOUGALL**—What you are talking about is indicative zoning? Commonwealth land is never zoned.

**Mr Deegan**—Indeed.

**Mr BILLSON**—A development control plan type of thing?

**Mr Deegan**—Yes, a development control plan.

**Mr McDOUGALL**—In that process, how far do you involve, other than behind closed door discussions, bureaucrats within local authorities or state planning authorities in relation to the potential use of the land?

**Mr Deegan**—We are facing increasing opportunities to involve local communities in these issues. Most of the local communities around the sites that we look after are intimately involved in the sites and are involved in the process of discussion. Needless to say, not all agree about possible future zoning sites. That is an issue for the Commonwealth to consider as it puts these sites up for sale.

**Mr McDOUGALL**—The Commonwealth has had a pretty bad record of disposing of land without communication with the general public. I have been involved in a few of them where they have done a bit of a deal with the council and a few private developers who have some good ideas of what they want to do. What you are now saying is that, instead of that process happening, there is going to be an up-front process where the Commonwealth will say, 'We propose to get rid of that land.' Part of the process is a proper, open, public consultation before you discuss it with any potential buyer.

**Mr Deegan**—The trend is going that way. It is a matter for the government of the day to determine how far they want to go down that process. But the trend is moving in that direction.

**Mr McDOUGALL**—Can I just come back to another part. We talk about now who is responsible for previous contamination. As an example, a Commonwealth site is used by a department and part of the site is used by a state under some sort of an agreement—probably individually with a department within the state—possibly for use as a rubbish tip. Eventually, for some reason, the land ends up across to the state in total. Then all of a sudden the state wants to do something with it, but there is a contamination that was caused during this loose arrangement that worked between the Commonwealth and the state. Who is responsible for it?

**Mr Deegan**—The state government in that case. It is part of the process of assessing. For the sites that we look after, we have in the public interest estate responsibility now for that. The Commonwealth some years ago bought a site at Armidale in New South Wales where residents had put up houses on an estate that was developed. That was the site of a former timber plant where there was arsenic involved. The Commonwealth simply moved in with its largesse, bought the site and recompensed the owners of those particular blocks. There are still some legal issues going on with the local council and the developer of the particular property. A host of risks are adopted by the Commonwealth and, hopefully, in a reasonably sensible and proper manner. There are some historical issues that we cannot all get over quickly, but we try and manage those as best we can.

**CHAIR**—The National Transmission Agency is referred to in recommendation 12—in particular, the storage of PCBs. I presume you are the nominal owner of the National Transmission Agency sites. Do you have any comments on the storage of PCBs by the National Transmission Agency?

**Mr Deegan**—We are working with the National Transmission Agency on assessing those environmental risks. They have taken a very responsible attitude to date on handling those. They have found a few things that would prefer had not happened previously, but they are working with us in a review of all those properties. Again, some of those we may seek to divest in the future and there will be particular interest in those sites. But there is a comprehensive environmental assessment going on on the handling of the PCBs.

**CHAIR**—The National Transmission Agency sites?

**Mr Deegan**—On NTA sites.

**CHAIR**—And who would you be able to sell those sites to?

**Mrs Box**—It varies depending on where they are. Some of them are in very remote locations, and there is really not a lot of interest in selling them. The issue there is that, if the sites are genuinely surplus, we need to contain them and keep the Commonwealth's management costs to an absolute minimum. Again, it is a matter of balancing the cost of sale and the return on the sale vis-a-vis holding the sites, because our energy is better spent selling other sites where we are going to get a better return.

**Mr Deegan**—In addition, some of those sites are valuable parcels of land in prime residential areas that if released for another purpose would return significant benefit to the Commonwealth.

**Dr SOUTHCOTT**—Within the department of communications, are there any other areas that are affected with contamination by PCBs, or is it just the National Transmission Agency?

**Mr Deegan**—They may have issues with the ABC and others, but we do not have any responsibility in that area.

**CHAIR**—There is a coordination council being established for the release of Commonwealth land. Could you describe its work?

**Mr Deegan**—There was a council for the coordination and release of Commonwealth land established, I think, in the late 1980s. I might have to check that. That has produced only two reports to the government at the moment. We are in the process of finalising the report to government on how that has operated. I think, as the nominal chair of that council, there is a responsibility on our branch to address some of the environmental issues that have not had the attention they should have had previously, and also to reflect the recommendations of the National Audit Office report. So we are in the process of getting that sorted out and getting a report to government.

**Mrs CROSIO**—Have you got a time frame for that?

**Mr Deegan**—Before the end of this year is our intention.

**CHAIR**—How much of this activity has been prompted by the Auditor-General's report?

**Mrs Box**—One of the more active things we have done is establish a database of our Commonwealth properties that we manage, and the contamination issues are included in that. Similarly, we are addressing heritage issues of Commonwealth properties that probably have not been addressed previously.

I cannot say they were on their way before the report. The report certainly gave some impetus to it, but the report came out at the same time as the organisation was restructured. The regional areas have virtually disappeared. I think we have addressed in the submission that we have gone from something like 220 staff down to 40. We have concentrated the management of these properties, where contamination is more likely to be an issue in a group of seven, essentially in Canberra. It is not always possible to tell how many staff were managing it previously.

So a number of things have happened at once that have concentrated our energies in this area. Just as this ANAO report has come out, the draft report on heritage matters relating to Commonwealth properties is shortly due out. So that has generated interest in how we are managing heritage issues. The combination of the restructure, the downsizing, the ANAO report and the change of government heritage report have all resulted in no changes in our responsibility in terms of what we do with the properties.

**Mr Deegan**—Can I add that our departmental secretary, Mr Mellors, has taken a direct interest in this process and, in the subsequent lead-up to the ANAO report, has asked for far greater attention to be paid to this area.

**CHAIR**—Did you find dealing with the Auditor-General in relation to these reports time consuming?

**Mrs Box**—I must confess I was not in the branch at that time, but going back over the records there were some quite extensive discussions with the ANAO. It was possibly time consuming but, no, we generally agree with the thrust of the report. There are minor details—and I am speaking on behalf of people who used to be in the branch; I am not speaking on my own behalf. Going back over what was written, there were some minor points that were argued and not argued which, if you had your chance again, may not have been argued as much under the current view of what we should be doing with the property.

**CHAIR**—So you feel then that the audit has been a profitable exercise for the department?

**Mrs Box**—Yes, we do not have a problem with that at all. It has raised awareness properly. Again, you could argue with minor details but, no, we certainly do not have an issue with it.

**Dr SOUTHCOTT**—What about the underground storage tanks that were held by Dasfleet and have been decommissioned? Is there any possibility that there may have been some leakage from those tanks?

**Mr Deegan**—That is a possibility. Dasfleet has a range of sites—most of which fall within the special purpose and industrial estate. Dasfleet has always taken an extremely responsible approach to the handling of those environmental issues.

**Dr SOUTHCOTT**—Have you had any involvement with Dasfleet sites?

**Mr Adamczyk**—We have conducted an assessment of one Dasfleet site in Melbourne. A normal part of that assessment is to validate the soil after the tanks have been removed to ensure there is no residual contamination. Also, if there are any plumes of fuel emanating from the tanks, they have to be chased and remediated as well.

**Dr SOUTHCOTT**—I see. Was the monitoring that you now have in Canberra and Darwin in place for all those other sites or is that something that has just come in recently?

**Mr Deegan**—We would have to check that for you and come back to you on that. DAS, because they are the agency on the site, takes responsibility for it. If it were to come back to us, that is when we get involved on any industrial and special purposes stuff, but we will get an answer for you.

**Dr SOUTHCOTT**—In terms of the tanks that have been decommissioned, you know that the one in Melbourne is okay. It is impossible to know with the other one, is it?

**Mr Adamczyk**—Until some assessment is done of those tanks. I am not aware of them at this time.

**Mr ENTSCHE**—The Melbourne one had a clean bill of health? There were no problems with that?

**Mr Adamczyk**—Yes.

**Dr SOUTHCOTT**—There is one other thing that I want to go back to. With the management plan for PCBs, are there any other industries within DAS—apart from the National Transmission Agency—that that would apply to?

**Mr Deegan**—Are there any other sites with PCBs?

**Dr SOUTHCOTT**—Yes.

**Mr Deegan**—Yes, we have some sites formerly held by the Department of Defence that may have some PCBs on them. As part of this internal auditing process we are trying to sort out our approach to that.

**Dr SOUTHCOTT**—So that management plan would apply to those sites within the domestic property group?

**Mr Deegan**—Yes.

**Dr SOUTHCOTT**—Not just to the National Transmission Agency?

**Mr Deegan**—You use the value of the information in one area to pick up another.

**Dr SOUTHCOTT**—Okay, thanks.

**Mr BILLSON**—In terms of Commonwealth standards for these buildings, particularly office sites,



does your work go to specifying that halon type products for the control of fire in computer plants and those sorts of things should not be included? Do you get into that prevention of pollution end of the market as well or is it more remedial?

**Mr Deegan**—I will get Mr Adamczyk to answer that. I think the department can take a lot of pride in its approach to the halon bank. It initiated the establishment of the halon bank to collect halon from both the Commonwealth owner state and the private sector with a deconstruction facility established in Melbourne. But Zyg might know more about the halon bank.

**Mr Adamczyk**—The halon bank is a part of DASCEM. There has been a responsible program of removing BCFs and halon from Commonwealth buildings. That is now extending to removing CFCs and refrigerants from those buildings as well.

**Mr BILLSON**—Is that pollution prevention end of your work focused primarily at the chemical end of it or are there other measures you could point to that suggest we are not only seeking to rectify the contamination that is left to us but avoiding creating more into the future?

**Mr Adamczyk**—Yes.

**Mr BILLSON**—What other sorts of things would you point to?

**Mr Adamczyk**—Apart from the halon removal process and also the CFC removal process, we are advising a number of government agencies on suitable substitutes for the refrigerants—more benign products for the ozone layer. DASCEM is also involved in the indoor air quality side of things in a proactive approach. It is also involved on the contaminated land and energy aspects as well.

**CHAIR**—As there are no more questions, thank you for appearing before the committee today. We appreciated hearing from you. There may be matters that you might like to draw to the attention of the committee by way of updates as we progress. Thank you.

[10.48 a.m.]

**HYMAN, Mr Mark Gordon, Assistant Secretary, Waste Management Branch, Environment Australia, Tourism House, 40 Blackall Street, Barton, Australian Capital Territory 2600**

**CHAIR**—Welcome. Do you have any comments to make on the capacity in which you appear?

**Mr Hyman**—Thank you, Mr Chairman. In fact, of course, I am no longer a representative of the Environment Protection Agency; I now belong to an organisation called Environment Australia. I am Assistant Secretary, Waste Management Branch—at least for one more week—but the organisation is now Environment Australia. My unit within that is now called the Environment Protection Group. As of approximately a week hence, I believe, a new structure will come into place, which will have me as Assistant Secretary of a branch called Chemicals and the Environment. I will leave it to the *Hansard* people to work out how to record that information.

**CHAIR**—That is all very helpful information. In fact, we received a submission from the EPA, which we have authorised for publication. Perhaps in the context of the remarks you have just made there may be some other corrections or additional comments you might like to make about the submission?

**Mr Hyman**—No, there is no further comment about that.

**CHAIR**—Would you like to make any introductory comments?

**Mr Hyman**—I do not think that would serve a great deal of purpose. I am very happy to move straight to the committee's questions.

**CHAIR**—The EPA indicated that it agreed with the audit office's recommendations but has now told us that it is not going to do anything about them. What is the process from here?

**Mr Hyman**—I suppose there are two key issues to be taken into account in this context. First, in the budget process this year there were, in virtually all departments and agencies of the government, some stringencies with regard to resourcing of various functions. That has led to some serious questioning in our own portfolio's case about where priorities lay. We identified the contaminated sites issue in general as being one where, first of all, it was very clear that, among all environmental issues, this was the one that was most clearly something for the states to manage because of their constitutional and traditional role in land management generally and, second of all, one where the individual Commonwealth agencies that were landowners in their own right were probably well placed to take responsibility for their own land management rather than look to us to take on a role in that respect. This is something that we had discussed with them in the past.

It was therefore an area of activity where it was felt that the Commonwealth could rein in its activities in a position where it was not doing so out of a wish to but out of a need to look very carefully at how resources were being allocated. Therefore, a decision was made to reduce the allocation of resources in that area.

The second issue worth canvassing is the mooted proposal to develop a national environment protection measure for the assessment of contaminated land. That is something which has been before the National Environment Protection Council and something which will be before it again in the future. Assuming that the council moves in that direction and decides at some time in the reasonably near future to develop a measure, in some senses the role that is envisaged for my organisation in this report would be one that is perhaps no longer needed because the rules under which Commonwealth agencies that own land would have to operate would be established by that measure. Therefore, the role that is envisaged here would be less crucial.

So, in a sense, the gap that might be created by my own agency stepping back from an active role in this area will ultimately be filled, I think, by the development of a national environment protection measure.

**CHAIR**—Who is going to take the lead in developing that measure?

**Mr Hyman**—The measure, of course, is developed in a collegiate sense by the Commonwealth and the states together.

**CHAIR**—But who is going to be the Commonwealth agency that is going to do the Commonwealth's bit?

**Mr Hyman**—I think I can best answer that question if I expand on my answer just a bit more. The normal practice within the National Environment Protection Council—and I say 'normal practice' perhaps a bit glibly because the organisation is still new and is still determining what its practices are—is that it has been agreed that the way these things will work is that one jurisdiction on the council will take the lead and that the National Environment Protection Council committee member from that jurisdiction will lead on the development of that measure and will champion the development of that measure.

In the case of contaminated land, there is yet to be a decision to take a measure. Although, I know informally that the feeling of members of the committee is that initially Queensland would take the lead on that measure with the intention that once Western Australia was a member of the council, there would be some consideration of whether Western Australia would take over leadership.

Other jurisdictions would participate in the project team. It would be my judgement that the development of a measure in this area, which has a high technical component, is probably something which is best suited to states and territories rather than the Commonwealth purely because of that technical component where the states have much more hands-on activity involved in the day-to-day regulation of matters to do with contaminated land and are, therefore, more expert in things like the setting of the levels of concern and things of that kind.

Certainly, the history of work in the ANZECC forum, in cooperation with the National Health and Medical Research Council, on contaminated land shows very clearly that the states are much better positioned to provide the technical input than the Commonwealth is. Meanwhile, the Commonwealth would certainly participate in discussions related to that measure and there is sufficient interest and expertise left in Environment Australia for us to be able to brief our committee member to keep an eye on the development of

the measure and to brief the minister in his participation. It is not that we are completely absenting ourselves from that. That is obviously not practical when there is a process going on in which we are automatically a participant.

**CHAIR**—The evidence that has come to the committee has suggested that the individual government departments have been very receptive to the audit office's report. Many of them have taken action separately to address its recommendations. But it would seem a little curious, when those departments are prepared to react positively, that the Department of the Environment, which one might expect to be at the core of this exercise, is withdrawing.

**Mr Hyman**—I can understand the point of your question. We have engaged in discussions with other departments and agencies who have owned land in the past. In fact, during 1994 and 1995, we did have quite considerable discussions with other agencies about how the Commonwealth should address the question of managing its own contaminated land. Most departments at that time seemed very comfortable with the idea that this was a responsibility they should take on themselves and that there was a fairly limited role for the EPA, as it then was, in offering them advice or providing any leadership.

Let me add that there would be limitations in any case on the kind of leadership advice we could offer, as there would be for a state EPA, in the sense that much of the time the kind of advice that would be needed would be technical advice on how to address a particular problem at a particular site. By and large, we would be unlikely to have the depth of expertise that would be needed to provide that kind of advice, and we would be obliged to tell the land owning agency in any case that this is something they should seek from consultants and go to the private sector for—as is the case of course with all other owners of land across Australia. This would be the normal practice.

**CHAIR**—You have been going for two or three years now. What leadership have you provided in relation to the environmental management of Commonwealth land in the past?

**Mr Hyman**—I think it is worth my trying to respond to that in two separate areas. The major activity that we have had in the past in respect of contaminated land has been two-fold. First of all, we have been an active participant in the work of ANZECC and the National Health and Medical Research Council on the revision of the 1992 ANZECC guidelines. That has been one of our major areas of activity over the past 18 months.

We have, for example, funded some detailed technical work by the Victorian EPA for developing a national framework for risk assessment in the Australian context and to develop some national soil criteria. This is technical work which we felt we could not undertake ourselves because we did not have the depth of technical expertise in the organisation, but we felt it was work that went to the national benefit and that it was appropriate for us to fund the development of those studies.

Those studies are now virtually complete. They will be complete in the next few months and they will therefore go to inform the outcome of the current ANZECC and NH&MRC work. That was hoped to be completed late this year, but my understanding is that that is now likely to be complete early next calendar year. In a sense, we have come more or less to the end of that work. A revised set of those guidelines is

likely to be available early next year.

Similarly, in the past we were involved in leadership work by chairing a committee with the other ANZECC agencies to develop a set of guidelines for how financial liability for contaminated sites ought to be treated. For the information of members, the financial liability question is absolutely a key one in addressing contaminated sites and, in particular, a strong, consistent and clear liability regime is probably the single most important preventive step in the contaminated site area. If someone knows that they are going to be held liable for anything they do to a bit of land, that is a very good way of making them take great care of their asset in terms of preventing contamination.

That is one of the areas where we have had a kind of leadership role which has not always been in respect of other government departments. But the work at a national level is something on which any landowner, in whatever capacity—government or private—can and do draw on. That work has been very influential.

The second area has been a more direct role in respect of other Commonwealth agencies where we have certainly attempted to take on a leadership and, in some respects, some of the role that is envisaged in the recommendations of this report. By and large other agencies have not seen that as being a necessary role for us to play. They have not encouraged us to play it. I believe that the development of a national environment protection measure will make it less appropriate for us to play that role because the rules under which any landowning entity needs to function in respect of a contaminated site would be made much clearer by a national environment protection measure. So the advice of an organisation such as ours would be less needed.

The other thing I think I should add at this point is that the current resourcing of this function, which is certainly at a very low level at the moment, is something which would naturally be kept under review. I would think the developments of the next six to nine months, in respect of any decision to make a measure or the completion of the work of the NHMRC and ANZECC task force in this area, will be occasions when there is an opportunity to rethink what continuing role we might have on the contaminated sites issue.

**CHAIR**—Is your agency still chairing the contaminated site steering group?

**Mr Hyman**—Perhaps I ought to clarify that point. There was an ANZECC group on the legal liability question and we chaired that. That completed its work in about May 1994. It submitted a report to ANZECC, which was released as a position paper. That group then disbanded because its work was over. There was, however, another group established, which was a joint group between ANZECC and NHMRC. That has alternating membership between the two national bodies—that is, between the National Health and Medical Research Council and ANZECC. The secretariat also alternates between the two groups. During 1994, the chair of that group was from South Australia on the health side and the department of health at Commonwealth level, or the NHMRC secretariat, provided the secretariat to that group. That was during 1995, I apologise.

During 1996, the secretariat functions switched to the Commonwealth and the secretariat switched to the environmental side, as did the chair. The chair was taken by New South Wales and the secretariat

function was taken by my organisation. That still remains the case. So we are still providing a secretariat to that body.

**Mrs CROSIO**—Mr Hyman, you are talking about the future, and I could not agree more about financial liability—that is, they are going to be made aware that they are going to have to pay if they pollute. But we have heard in evidence this morning about the national environment protection measures and how they are going to come into play and how it should be viable next year. Is that legislation, at a state level or with the Commonwealth overseeing it, going to clearly spell out financial liability?

**Mr Hyman**—I think that that is unlikely given the discussions that have taken place so far and given the way the national environment protection act is framed. I should qualify my remarks by saying that I am not a lawyer by profession and I would hesitate to undertake a kind of bush lawyer, amateur, interpretation of the Act. My own experiences of trying to make commonsense interpretations of legislation have by and large been off the mark, so I would hesitate to do it.

It is my understanding though, from hearing the discussions that have taken place in other quarters, that neither the way section 14 of the national environment protection council act works, nor in the policy intention, is it the idea that the measure would include, or even could include, an aspect of financial liability. However, provided each of the states and territories has a clear financial liability regime in place, the fact that the Commonwealth as a landowner may at some stage wish to divest itself of land on the market means that the same discipline that is exerted in each jurisdiction over private owners of land would also be exerted over the Commonwealth as an owner of land because the market is there, the market is going to determine the value of that asset. Really what you have then is a way in which the market obliges or influences the Commonwealth as a landowner to take proper precautions to manage its assets properly, and I would think that would include ensuring that the value of the asset is not degraded by contamination of the land.

**CHAIR**—So basically the philosophy for the future is that the Commonwealth will not be seeking to coordinate a Commonwealth response to caring for its contaminated sites but will be relying on a national approach involving the states. How many years do you think it is going to be before that measure is in place?

**Mr Hyman**—That is a very good question. There are a couple of imponderables in there. First of all, the decision to take a measure has not yet been made. The council, I think, has fairly clearly signified its wish to move towards making a measure, but they have also realised that the ability to make that measure depends on the completion of the current work that is going on between ANZECC and NHMRC. As I suggested earlier, it now looks as though that work will be complete in the first part of the next calendar year. That would imply that the earliest the council could decide to make a measure would be about that time. It depends, too, on the meeting schedules of the council—whether they might take such a decision out of session or by telephone conference or whatever the possibilities are in that direction. So there is a first imponderable there as to when the council can get to the point where it feels it can decide that a measure should be made and announce its intention to do that.

Then there is the process of developing the measure. There are statutory time lines involved in that. There is, for example, a one-month statutory deadline from the announcement of the intention to make the measure until the draft measure can be issued so that people can respond that there is going to be a measure

in that area. There is a further two-month statutory period for consultation and for consideration of a regulatory impact statement or an impact assessment associated with the measure. Therefore there is at least a three-month period in there. The council meets, one assumes, approximately every six months. There is work to be done in actually drafting the measure and that, presumably, is going to take time as well.

All I have spoken about in terms of statutory deadlines are the minima. You could extend that if you thought it was important to consult for a longer period. And there are also periods within which the council would have to take decisions. The reality is that, although there is no necessary time required for that to happen, in practice these are important ministerial decisions under legislation—the decision, for example, to issue the draft measure, the decision to make the measure at the end of the process. Each of those must allow some time for ministers to become informed over what their decision means, to be properly briefed and to consider the written material before them. So, when you build those in as well, you are probably looking at about a five-month absolute minimum. I do not think you could make a measure in less than six months and I think it is probably normal for a minimum period to be more like 12 months.

The importance in the contaminated land context is that the technical work will have already been done. So, therefore, the business of importing that technical work into the measure should be reasonably straightforward. I am sure there will be further issues to consider because the work that is being done for ANZECC and NHMRC is non-statutory work—it is guidelines—but that will get a statutory status when it is made into a measure, and that will mean that there has to be some detailed consideration of how that happens.

**CHAIR**—Would it cover Department of Defence land as well?

**Mr Hyman**—Yes. But, even so, it will take some time to convert the NHMRC-ANZECC outcome into a measure, I am sure. I would think that a 12-month period is most likely judging by what I have seen.

**CHAIR**—I would have thought that would have been remarkably quick.

**Mrs CROSIO**—Then on top of that all the states have then got to come to the party, so it could be another year or two down the track after that.

**Mr Hyman**—That is the making of the measure. You then have to have the implementation of the measure. That is correct.

**Mrs CROSIO**—We could be looking at three years down the track.

**Mr Hyman**—Of course, there are questions of parliamentary time if legislation has to be passed and things like that.

**CHAIR**—There would not be legislation, though, would there?

**Mrs CROSIO**—Oh yes.

**Mr Hyman**—It would depend, I think. It would depend on each state.

**Mrs CROSIO**—Unless all the states have got it into place.

**Mr Hyman**—But some of the states would have a legislative regime which they could amend, I think. The other thing is that these are guidelines and the states therefore have some leeway as to how they convert them into their own regulatory regime. They may well be able to do it by regulation under their legislation, and that might be quite quick—it might not be a slow process at all. Of course most states now have requirements to undertake their own impact assessments and things like that. I would hope that they could rely on the national impact assessment that was done at national level for the measure, rather than have to undertake other action at state level.

**CHAIR**—So you are seeking to have a single set of documents that will accommodate the contaminated site—such as an ex-World War II artillery firing range, or a state that is looking after ex-cattle dips and service station sites.

**Mr Hyman**—The way the guidelines work is that they do set levels of concern, for example—or nominate levels of concern, perhaps, is a better term—for a number of different kinds of contaminant so that, for example, in an old cattle dip, you might find that you have contaminants such as organochlorines, arsenic and possibly things like organophosphates. You would find tables in the guidelines which would say, 'Here are the levels of concern for each of those contaminants.' The question of unexploded ordnance is, of course, a bit different because it is not susceptible to measurement in quite that way, but you might find that there was a section in the guidelines which related specifically to unexploded ordnance.

In the same way that air pollution regulations might set levels of concern for many different air pollutants, each of which would have different implications for human health and the environment, similarly ones for land can set levels of concern for a range of different contaminants. You would also have to include heavy metals, hydrocarbons, a wide range of different organics and so on.

**CHAIR**—I have another question in relation to this. The states normally manage land matters. Is it envisaged that the Commonwealth will subject its land to the inspectorial processes of the states?

**Mr Hyman**—This is an area which depends on how the NEPC implementation bill—which I understand is in the late stage of drafting—proceeds. There is a bill at Commonwealth level, which I believe is being drafted at the moment which it is intended to introduce into the parliament, I think, later this session but I am not absolutely sure—later these sittings, I think is probably the right term—which will establish the basis on which national environment protection measures are implemented for and by the Commonwealth. The formula which the Commonwealth adopts in that bill is the way in which your question would be answered. It would depend on that. For example, there are a number of different models.

**Mrs CROSIO**—Who has the control of that bill, if I could just interrupt?

**Mr Hyman**—I think my minister does. I do not have personal responsibility for that bill; I do not think I have even seen a draft. But you can understand there are a number of options that the Commonwealth



could follow. The Commonwealth could legislate for each measure, for Commonwealth lands and places and waters. It could just subject Commonwealth agencies to state law; it could adopt state law as Commonwealth law. There are a number of different pathways the Commonwealth could go down, but the intention is that measures will apply across Australia to all operations, including Commonwealth operations. It is just a question of how it is done.

**Mrs CROSIO**—That bill, how it becomes law and what it has in it would also touch on all the things that we are now looking at.

**Mr Hyman**—It would have implications for how a measure, in respect of contaminated land, ended up being applied to Commonwealth land.

**CHAIR**—The Auditor-General made his report in the light of the circumstances arising at the time. Is it your view that the issue should be revisited in the light of the critical role that the EPA was to play in the implementation of the Auditor-General's recommendations?

**Mr Hyman**—My view would be that the appropriate time to revisit the report might be when the way ahead, in respect of a national environment protection measure, is clearer. That is the key thing that is going to happen in the future that will influence what happens here. On most of what I see, the recommendations of this report—including those that apply to us—probably the Commonwealth can proceed for the first time across a broad front through the actions of the landowning agencies, and probably will.

My dealings with most of those agencies lead me to believe that they are aware of the sorts of issues that are in this report. They are aware of their responsibilities as, if you like, good citizens as agencies of the Commonwealth. I think the picture is going to change most because of the development of a measure, rather than because of any stepping back that we might undertake.

**CHAIR**—What sorts of issues have been given priority in the residues of the EPA over this matter?

**Mr Hyman**—The continued operation of the NHMRC and ANZECC process—taking that through to completion now—and our continued provision of secretariat services to that process and our participation in the NEPC discussion on this issue are the two issues that we would wish to maintain some activity on.

**CHAIR**—What other things are you going to do in other areas?

**Mr Hyman**—In areas other than contaminated land?

**CHAIR**—What things were given a higher priority than this?

**Mr Hyman**—That is a much broader question. First of all, we have ongoing legislative activities—I am now speaking, of course, on behalf of the whole group—from which it is very difficult to step away. This would include the Environment Protection (Impact of Proposals) Act which, of course, is a substantial body of our resources. It would also include other legislation we are responsible for, which includes the Ozone Protection Act, the Environment Protection (Sea Dumping) Act and the Hazardous Waste (Regulation of

Exports and Imports) Act.

Those would probably be the major pieces of legislation along, of course, with the Alligator River—I cannot remember the name of the full title, but it is the act that establishes the supervising scientist position and the statutory functions that are associated with that. So those legislative functions, in a sense, have to be quarantined and put aside because of the obligations under legislation. In the restructure that is currently going on, our group will also include the climate change function. I believe that that is probably going to remain a very high priority for the government.

These are other functions that have been accorded priority: continued work in areas like waste minimisation, which is the subject of a major Commonwealth-state exercise at the moment and negotiation process with industry over voluntary industry waste reduction agreements; areas like environmental technologies and cleaner technologies; cleaner production, which is the subject of considerable international action in the region as well as cooperation with state governments; areas like the international chemicals process; the domestic assessment of chemicals; some of the specialised waste streams which need particular attention; and the national pollutant inventory. I could go on, but this gives you a bit of a feeling.

It is extraordinarily difficult to find the areas where the Commonwealth can really retreat in any significant way from what it now does. I know that a huge amount of attention went into this in the lead-up to the budget. None of the choices about constraining activity were easy to make. It is really a recognition that, with the development of the measure and the very extensive role played in this anyway by states and territories, this was an area where the Commonwealth could step back a little without having a huge impact on what happened nationally.

**CHAIR**—Any other questions? If not, thank you very much for your attendance today. Your response to these matters, obviously, and the changes in circumstances since the auditor's report was tabled, are something that the committee will have to address in its considerations in the months ahead. We appreciate the information that you have provided. It may be that we will need to come back to you and request some additional information, but thank you very much for your participation today.

**Mr Hyman**—Thank you. I would, of course, be very happy to come back at any future time.

**CHAIR**—Before the hearing adjourns I call upon one of the members to move that the evidence be published.

Resolved (on motion by Mrs Crosio):

That, pursuant to the power conferred by paragraph (o) of standing order 28B, this committee authorises publication of the evidence given before it at public hearing this day.

**Committee adjourned at 11.20 a.m.**