

CHAPTER 7

OTHER MATTERS

Sale and lease-back of Defence properties

7.1 Under term of reference 5, the Committee is required to consider sale and lease-back of properties by the Department of Defence.

7.2 DEO submitted that:

In the context of the 2000–01 Budget, the Government agreed to the sale and lease-back of a number of Defence office buildings and specific properties and the sale of other properties. The estimated revenue is \$480m in 2000–01 worth a further \$60m in later years. Properties involved include parts of the Russell Offices, commercial office blocks in Sydney and Melbourne, warehousing facilities in Sydney, Brisbane and Darwin, an office building in Wollongong and a facility outside Melbourne.¹

7.3 The Department of Finance and Administration advised subsequently that only the four Russell buildings and the Sydney and Melbourne Plaza office buildings were being sold and leased-back.

7.4 DEO was asked what were the commercial imperatives driving the lease-back operations. Mr Corey responded: ‘The Department of Finance and Administration and the Expenditure Review Committee of cabinet agreed to the disposal as a revenue measure for the budget. These funds do not come back to Defence: they go to the budget. It is a method of raising \$480 million this year.’² Mr Corey added that Defence would get a one-off supplementation of the rent for the Russell Offices but no supplementation for the other buildings.

7.5 The sale and lease-back of Defence buildings was being conducted by the Department of Finance and Administration, as that department had the most experience in that field. Ms Kathryn Campbell, First Assistant Secretary, Property Group, DoFA, said that the three properties did not meet the retention requirements of the Commonwealth property principles, and were therefore designated for sale. Mr Stephen Bartos, General Manager, Budget Group, DoFA, confirmed that a long-term cost analysis had been done and provided to Cabinet in support of the proposal to sell and lease-back the properties. The Committee sought the cost benefit analysis but was denied the information on the grounds that it was included in a Cabinet submission. The Committee does not believe that the inclusion of such information in a Cabinet

1 DEO, submission, pp. 3–4

2 *Committee Hansard*, 10 November 2000, p. 239

document should be used as a reason for denying the Parliament the opportunity to scrutinise it. The cost benefit analysis is not inherently advice given to government. It is simply supporting information. It should have been released to the Committee.

7.6 Asked about a cross-over point in terms of when a sale and lease-back arrangement is not beneficial, Ms Campbell replied:

It is difficult to advance the argument of a cross-over point in a simplistic manner. It is not so many years of rent equals the amount that is received in capital value. The calculation in the Commonwealth property principle includes the opportunity cost of the capital—that is, what government can do with that capital once it is freed up on other programs and other government initiatives. It is not just a simple calculation of working out the rent; it is also what the capital would not have been used on if it had not been freed up in the sale.³

7.7 Yet, in a recent report, the ANAO was critical of the sale and lease-back arrangements for three other non-Defence Commonwealth properties, referring to a break-even point for one of them after only eight years and 11 years for a second property.⁴

7.8 The Sydney and Melbourne Plaza buildings were being leased back for a ten year term with two five-year extensions. The Committee is not aware of the proposed term of the lease for the Russell offices. Ms Campbell told the Committee:

The properties are sold with a lease in place. The new owner does not have that choice. The new owner buys a lease for 10 years where those amounts are set with rental escalation factors. All sales and lease-backs of Commonwealth assets have been done in this manner. So the buyer buys the lease and then the agency has that 10 years or whatever period they have negotiated of a set amount and a lease that they know about before they enter into it.⁵

7.9 As Defence will have the head lease for the properties, it will manage the sub-leasing of retail premises in the Sydney and Melbourne Plazas.

7.10 The Committee questioned DoFA about possible other uses of the Russell site after the end of the proposed lease. Ms Campbell replied:

I would expect that Russell in the future may be able to be used for other Commonwealth purposes. Other Commonwealth agencies could possibly use Russell as an office facility. Given that Canberra will always have in the foreseeable future a number of public servants, it is possible that those

3 *Committee Hansard*, 26 February 2001, p. 489

4 ANAO, *Commonwealth Estate Property Sales*, Audit Report no. 4, 2001–2002, pp. 18–19

5 *Committee Hansard*, 26 February 2001, p. 486

public servants could be housed or occupied in Russell offices if Defence were not going to use the facility into the future.⁶

7.11 The Committee considers that the Sydney and Melbourne Defence Plazas, located as they are in the Sydney and Melbourne CBDs, are good long-term commercial propositions for non-government owners as they could be used for commercial purposes after expiry of leases with Defence. It is possible that at the end of the lease period, Defence may not want office accommodation in central Sydney and/or Melbourne.

7.12 The proposed sale and lease-back of the Russell offices is another proposition. There is no prospect of Russell becoming a commercial centre in the foreseeable future. It will most likely remain Defence offices for a long time into the future. Although possible, it is unlikely that other departments might use the Russell offices instead of Defence. Given the likelihood of Defence remaining at Russell for decades to come, the Committee seriously questions the long-term benefits that might accrue to the Commonwealth from this proposal. In the light of ANAO concern about sale and lease-back contracts with three other non-Defence agencies, and the refusal of DoFA to provide cost-benefit analysis of the sale and lease-back of the three Defence properties, the Committee believes that the Government should review the sale of Russell.

Maintenance of surplus properties

7.13 Concerns were raised with the Committee about the continued maintenance of properties once they had been declared surplus and operational units had departed. The Campbelltown Council commented:

However, the Council has raised concerns on several occasions about Defence's lack of management of the vacated Army camp. The lack of management has resulted in vandalism and destruction, sometimes by fire, of buildings on the site prior to the completion of a heritage study to determine the heritage significance of the buildings.⁷

7.14 The members of Save the Afton Street Hill Group from Melbourne were very critical of the management of the Afton Street Hill property, which is vacant Defence land in located in the Maribyrnong Valley. In particular, the group was concerned about the impact on the natural environment by introduced noxious weeds and the lack of maintenance of a site seen as vacant land:

I think there is a question of the standard of custodianship of Defence both now and in the past of those lands...I think the standard of custodianship of Defence as the landowner have been remiss in this case to the point of being reprehensible because they have been aware of the quality of the

6 *Committee Hansard*, 26 February 2001, p. 489

7 Campbelltown City Council, submission no. 55, p. 6

environmental remnants left on the land and they have done nothing to safeguard them.⁸

7.15 The lack of maintenance was put to DEO. Ms Liz Clark responded:

The defence department has carried out a number of studies on this property, which identified grassland areas, which are remnant areas. We have developed an environmental management plan. That was about to be implemented. We are addressing some of those issues they have raised in relation to noxious weeds, and that is being overlooked by the Defence Estate manager in Victoria. The total environmental management plan has been discussed with the council as well with regard to their council's interest in acquiring the property.⁹

7.16 Ms Clark also told the Committee that the local council was preparing a submission for the land to be provided to the council for use as open land under a priority sale arrangement.¹⁰

7.17 When questioned on the general matter of maintenance of properties, DEO explained that such maintenance relates to an allocation of resources:

If there are buildings that have no heritage or other value and we have vacated them, we have no further use for them, then obviously we are not going to put money into them to maintain them. That has happened in the case of a number of sites. Some sites have been vandalised, even though we have security in place. But where there is a future use for the buildings, they are maintained.¹¹

7.18 The Committee believes that DEO needs to program regular checks of unoccupied Defence properties to ensure that minimum maintenance is carried out so that they do not become eyesores and that heritage and environmental values are maintained.

Leasing premises on surplus land

Point Cook RAAF Base

7.19 The Committee took evidence from users of leased premises on the Point Cook RAAF Base. It would not be an overstatement to say that the criticism was trenchant and harsh of the management of the leasing arrangements put in place by DEO. The Committee sought responses to those criticisms from DEO officers and

8 Ms Jennifer Lee, Save Afton Street Hill Group, *Committee Hansard*, 16 February 2001, p. 455

9 *Committee Hansard*, 2 April 2001, p. 663

10 *Committee Hansard*, 2 April 2001, p. 663

11 Mr Rod Corey, Head, Defence Estate, Department of Defence, *Committee Hansard*, 2 April 2001, p. 677

agents during public hearings. It also obtained some written information, such as copies of lease contracts, from DEO.

7.20 The Committee does not believe that it is worthwhile to cover the individual claims and responses in this report. That information has been available in the Hansard transcripts of evidence on the Internet from shortly after the hearings in which those matters were aired. It will make, however, some more general comments about the leasing arrangements as they applied to the Point Cook RAAF Base.

7.21 Mr Ross Bain, Assistant Secretary, Property Management, DEO, explained the background to the leasing arrangements put in place at Point Cook:

Maybe we should go back a little bit. When the Defence Estate Organisation took over the airfield in 1997 the tenure arrangements there were not as they should be; they certainly did not protect the commonwealth and they probably did not protect the tenants either. We went through a process of implementing a structured approach to the occupation and use of the airfield, because the Commonwealth was assessed to be at quite a high risk under the arrangements that existed because it was not a normal airfield; it was a Defence airfield to which there was civilian access. That was the basis of establishing the licences and agreements which I think, at the end of the day, really just covered our costs of establishing them. When you gained access to the airfield it was like joining a club: there was a one-time fee that gave you access from then on to use the airfield. But they had to be a registered user so that they understood what their obligations were and we understood ours. That was the basis of those arrangements being put in place.¹²

7.22 Ms Liz Clark, Director, Canberra Disposal Unit, DEO, added:

In 1997, when we took over the responsibility for managing it, there were a number of non-Commonwealth entities, which is why we went through the process of putting the arrangements. An option would have been that we actually closed the airfield; the risk was quite substantial to the Commonwealth. Rather than close the airfield—because there was a lot of use: the RAAF museum was there and obviously the airfield still operating encouraged visitors to the museum as well—we thought it prudent to seek advice on how we could best manage the airfield to make sure it was still accessible to the public and to protect our interest as well. So KFPW investigated other arrangements that were in place in other airfields. You must remember that this is an unlicensed airfield as opposed to your Moorabbin, which are licensed airfields. A licensed airfield comes in underneath CASA regulations and it is related to passenger numbers and things like that, whereas Point Cook is unlicensed. It is quite a difference.¹³

12 *Committee Hansard*, 2 April 2001, pp. 619–20

13 *Committee Hansard*, 2 April 2001, p. 620

7.23 Mr Corey explained that the new arrangements instituted by DEO probably upset existing users of the airfield:

I think you have to understand some of the history of this: the RAAF operated Point Cook over a long period of time and a whole lot of informal relationships developed. The Royal Victorian Aero Club would have been one of those where they probably flew out of Point Cook on an 'old boy' basis. When we decided to close down the flying operations of the Air Force and this property became surplus and we did not intend to make it a licensed airfield, the 'old boy' relationships no longer existed and we instructed KFPW to put some of these on a more commercial footing.¹⁴

...

And that is why you are getting the reaction from the Aero Club: for many years they have flown on an informal basis at no cost out of Point Cook, and all of a sudden they are being treated like any other commercial user and they do not like it. Perhaps we have not negotiated or spoken to them enough or consulted with them sufficiently, but our intention has always been to close down Point Cook, to get out of Point Cook and let somebody else take over its operation.

...

I must admit that, from the viewpoint of the Defence Estate, this is a very small issue, and we have delegated this activity to our agents, KFPW, to manage. Had we been aware that it would take us so long to untangle Point Cook, we probably would have paid more attention to it. But, from where we sat up to five years ago, we assumed that we were going to be out of Point Cook and it was going to be managed some other way. But for a whole lot of reasons, which we have heard some of—some political and some not political—it has not happened. I guess all we can do is learn from where we have been and, in the next stage of Point Cook, manage it more actively. And hopefully the other people we invite to play in the game will also participate actively.¹⁵

7.24 The Committee believes that many of the problems at Point Cook stemmed from the lack of consultation between DEO and users. Some good old-fashioned manners and common courtesies would go a long way to resolving many of the problems created by DEO and its agents. DEO should have explained carefully to the users what it was trying to do and what arrangements were going to be put in place and the type of charges to be instituted to cover the costs of the leasing arrangements. It should also have ensured that DEO officers were available to discuss any problems that occurred between the users and KFPW, the management agents used by DEO to manage the leasing arrangements.

14 *Committee Hansard*, 26 March 2001, p. 636

15 *Committee Hansard*, 26 March 2001, p. 636

Bundock Street property, Randwick

7.25 The Rudolf Steiner School, which was leasing facilities at the Bundock Street property, made a submission to the Committee regarding its plight, as its lease was due to expire and it had nowhere else to move. A representative of the School, Ms Megan James, explained the background:

Just a very brief background: the Children's Garden Rudolf Steiner School is an independent school founded on the educational principles of Austrian philosopher Dr Rudolf Steiner. Steiner education is the largest non-denominational independent schooling system in the world. There are more than 600 Steiner schools worldwide, with about 40 in Australia. Each school is autonomous and is the result of individual initiative. The school began, as you have heard, in about 1994, leasing space directly from the Randwick Community Centre. It became the first Steiner primary school south of Sydney's harbour in January 1997, and at that stage offered kindergarten and class 1. This year we will be offering kindergarten to class 5 and we hope to add another class next year which would complete our primary obligations, from kindergarten to class 6.

...

As the school has grown, it has needed more space for more classrooms, quite logically. By 1997 the school had outgrown the space the community centre could provide. We approached the Department of Defence directly. Initially the department's agents refused the school any further premises, but after six months of negotiations the school was allowed to expand into part of a disused Navy printing office known by the department as building 59. The building was very dilapidated.¹⁶

7.26 Ms James went on to say that the parent spent much time and effort in making the new area habitable. DEO twice significantly raised the rent. The School, however, wanted a long-term lease to allow the School to develop, to which DEO refused to accede. However, in October 1999, a press release from Mr Bernard Blackley, Director of DEO's Sydney Disposal Unit, said:

The children's garden school, a Rudolf Steiner school, which currently occupies a leased area on the site, will be offered a lease as part of the new development.

...

As the Children's Garden are existing site users, it is proposed to offer the school a site in the development zone located at the eastern end of the site near the proposed new community facility.¹⁷

16 *Committee Hansard*, 25 January 2001, p. 364

17 *Committee Hansard*, 25 January 2001, p. 365

7.27 Ms James said that:

the school interpreted these undertakings as a commitment to keep the school on the site long term, indeed as part of the new development. We have presumed that the development itself was not to be a short-term operation and therefore neither was the school's existence on the site—it would follow. This was clearly how the promise was interpreted by the public, by politicians and by the press. In fact, the media were quick to pick up on this good news angle in the development story.¹⁸

7.28 Mr Blackley explained the intent of the press release:

I said we would offer them a lease on the site—that is what I said, and I do not resile from that. I was trying to help them by saying that we would offer them a lease elsewhere on the site while they looked around to buy a site, but it way it was written was unintentionally ambiguous. As soon as we realised the ambiguity Tony met with the people from the school and explained it.¹⁹

7.29 Mr Bain also explained the policy basis that constrained DEO from offering the School a separate lease on the property:

That statement was perhaps a little ambiguous. The Commonwealth cannot deal one-on-one with organisations like this in offering land, and it must be on a commercial basis. Mr Fitzsimmons explained that in a follow-up on that press release, but there was still that perception that that offer had been made.²⁰

7.30 The Committee noted that under its licence, the School had to vacate its premises by January 2002.

7.31 Although the Committee feels sympathetic towards the plight of the School, it is not in a position to make any recommendations regarding the issue of the long-term placement of the School on the Bundock Street property. As DEO lost its legal challenge, the future development of the site is uncertain.

John Hogg

Chair

18 *Committee Hansard*, 25 January 2001, p. 365

19 *Committee Hansard*, 16 March 2001, p. 604

20 *Committee Hansard*, 16 March 2001, p. 603