

The Auditor-General
Audit Report No.28 2007-08
Performance Audit

Defence's Compliance with the Public Works Committee Approval Processes

Department of Defence

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of Australia 2008

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Canberra ACT
22 April 2008

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Department of Defence in accordance with the authority contained in the *Auditor-General Act 1997*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit and the accompanying brochure. The report is titled *Defence's Compliance with the Public Works Committee Approval Processes*.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian McPhee', is positioned above the printed name.

Ian McPhee
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Abbreviations and Glossary

Defence	Department of Defence
DISC	Defence Infrastructure Sub-committee
Direct Procurement	Defence uses two methods for financing projects. Most commonly, direct procurement is used. This involves a standard set of contracts to pay for the required work at the time of construction. Less common are Public Private Partnerships (PPPs) – see below
DRMS	Defence Document and Record Management System
Finance	Department of Finance and Deregulation
GST	Goods and Services Tax
Infrastructure Management System	An online (intranet) manual which provides information for Defence staff working on direct procurement public works projects
JCPAA	Joint Committee of Public Accounts and Audit
PPP	Public Private Partnership. A method of financing whereby a long term contract is entered into between a private company (or consortium) and a government entity for the provision of goods and services. The terms Private Financing Initiative, Private Financing and PPP are used interchangeably
PSC	Public Sector Comparator. The public sector comparator is an indication of how much a project would cost if directly procured, to allow a cost comparison between PPP and direct procurement to be made
PWC	Parliamentary Standing Committee on Public Works which is also known as the Public Works Committee
Single LEAP	Single Living Environment and Accommodation Precinct Project. Upgrade of single personnel accommodation on site at Defence bases

Summary and Recommendations

Summary

Introduction

1. Under the *Public Works Committee Act (1969)* (the Act), any public work¹ estimated to cost \$15 million or more must be referred to the Parliamentary Standing Committee on Public Works (the Committee).² In early 2007, the Joint Committee of Public Accounts and Audit (JCPAA) advised the Australian National Audit Office (ANAO) that a priority³ of Parliament was for the ANAO to conduct a performance audit of the processes associated with the development of public works proposals by agencies that fall within the scope of the Committee. Against this background, the ANAO decided to undertake two related audits on this issue.

2. This first audit examines whether the Department of Defence's (Defence's) capital works projects have been submitted in accordance with the Committee's requirements for notification and review prior to entering into financial commitments for the works. A second audit, which is currently underway, will assess the planning and delivery of selected capital works projects, the extent to which these projects have delivered in accordance with expectations, and the extent to which relevant sponsoring agencies have complied with the requirements of the Act and approval procedures.

Administrative processes

3. The Department of Finance and Deregulation (Finance) administers the Act, and is responsible for working with agencies to ensure that any work estimated to cost \$15 million or more is referred to the Committee. The Act provides the Committee with powers to examine and report on:

- the purpose and suitability of the work for the purpose;
- the need to carry out the work;
- cost effectiveness;

¹ A public work is defined as a work proposed to be done by the Commonwealth, or on behalf of the Commonwealth, and it includes construction, alteration, repair or destruction of buildings and other structures.

² The Parliamentary Standing Committee on Public Works is also known as the Public Works Committee or the PWC.

³ Each year, the JCPAA consults with all other Committees of the Australian Parliament to identify the priorities of the Parliament for performance audits to be undertaken in the following financial year by the ANAO.

- the amount of revenue that may be expected⁴; and
- the present and prospective public value of the work.

4. Submissions to the Committee are prepared by the agency which is carrying out or contracting out the work. The submission includes information on why the work is necessary, other options that were considered, the estimated cost and any plans or drawings that will help the Committee understand the purpose and scope of the work. The Act provides that a public work, for which the estimated cost exceeds the threshold amount requiring referral to the Committee, may not be commenced unless either such a referral has occurred or certain specific conditions are met.⁵

5. Defence has a large ongoing investment program and so many of its projects are required under the Act to be referred to the Committee. The total value of projects referred to the Committee over the period from mid 2004 to mid 2007 was \$5.29 billion. Defence was selected for audit because Defence projects comprised \$4.30 billion, or 81 per cent of the total value of projects referred to the Committee over the period.⁶

6. Defence uses two methods for financing projects. Most commonly, direct procurement is used. This involves a standard set of contracts to pay for the required work at the time of construction. Less common are Public Private Partnerships (PPPs), whereby Defence enters into a long term agreement to pay an annual service payment, which covers the cost of construction work and whole of life maintenance and service provision.

7. The policy and processes Defence has in place to provide guidance to staff managing projects is quite different depending on which of these two

⁴ Revenue might be produced from building works like a toll bridge or a building that can be leased out to private companies.

⁵ Sub-section (8) of section 18 of the Act provides that:

A public work the estimated cost of which exceeds the threshold amount shall not be commenced unless:

- (a) the work has been referred to the Committee in accordance with this section;
- (b) the House of Representatives has resolved that, by reason of the urgent nature of the work, it is expedient that it be carried out without having been referred to the Committee;
- (c) the Governor-General has, by order, declared that the work is for defence purposes and that the reference of the work to the Committee would be contrary to the public interest; or
- (d) the work is a work that has been declared, by a notice under subsection(8A), to be a repetitive work for the purposes of this subsection.

⁶ Defence manages \$11.9 billion of land and building assets and spent \$578 million on capital facilities projects in 2006–07.

financing methods is being used. There is much more support material available to staff managing projects using the direct procurement method, as this is the most common way of managing a public works project. The PPP method is still being developed, and, as a consequence, supporting material is also being developed.⁷

Audit objective and scope

8. The objective of the audit was to review selected Defence public works projects submitted in the three year period ending mid 2007 to assess whether they had been submitted in accordance with the Committee's prevailing requirements for notification and review prior to entering into financial commitments for public works. The audit also examined the procedures applied by Defence to refer public works projects to the Committee, and identified administrative practices that may improve adherence with relevant legislative and administrative referral requirements.

9. The scope of the audit did not include an examination of the extent to which the projects in the ANAO's sample have delivered in accordance with expectations. As noted in paragraph 2, the ANAO currently has a second audit underway that will assess the planning and delivery of a sample of capital works projects (including two Defence projects), the extent to which the selected projects have met expectations, and the extent to which relevant sponsoring agencies have complied with the requirements of the Act and approval procedures.

10. In order to assess Defence's adherence to the Committee's requirements, 13 projects were reviewed in detail during fieldwork, having regard to adherence to both the requirements of the *Public Works Committee Act 1969* (the Act) and the Committee's Manual of Administrative Procedures (the Committee's Manual). The 13 projects selected represent 78 per cent of the total estimated cost of the 22 Defence projects referred to the Committee from mid 2004 to mid 2007. They are a cross section of projects, from the very large and complicated (for example, provision of facilities for the Single Living Environment and Accommodation Precinct (LEAP) Project), to the relatively straightforward (for example, the facilities upgrade to the Shoalwater Bay Training Area). The sample of projects include 10 that were financed through

⁷ The most comprehensive information available on PPPs at the Commonwealth level are the Department of Finance and Deregulation's Financial Management Guidance No.s 16 to 19, covering an introductory guide, business case development, risk management and contract management.

direct procurement, and three that are to be financed using Public Private Partnerships (PPPs).

Conclusion

11. Defence complies with the requirements of the *Public Works Committee Act 1969*, and largely complies with the requirements of the Committee's Manual, in referring projects to the Committee for notification and review prior to entering into financial commitments for the relevant public works. The ANAO found that Defence had referred all 13 of the building works projects examined in the audit to the Committee for Parliamentary approval before the department committed money to construction. In addition, all 13 projects demonstrated adherence to the legislative requirements, and 11 of the 13 selected projects demonstrated adherence to the Committee's administrative guidelines. The non-adherence to the guidelines for two projects relates to the requirement to advise the Committee of any significant changes to design, scope and related matters (see Table 1).

12. Defence's ability to manage building works projects successfully is influenced by relatively stable staffing, leading to corporate knowledge being retained, and a mechanism for maintaining in one easy to navigate system, key project management information. Defence has clear and accessible guidelines that reflect the Committee's requirements for the projects the department manages using direct procurement. However, Defence does not currently have available equally comprehensive policy and procedural information to guide project officers in developing and delivering PPP projects. The guidance Defence does have available to project officers undertaking PPPs is not maintained on the Infrastructure Management System and does not include information on the Public Works Committee processes, either before or after Parliamentary approval.

13. The ANAO considers there are opportunities for improvements to help Defence prepare for, and follow up on, Committee requirements. These include the use of standard templates when preparing documents for the Committee, more clearly specifying the costs of the project (particularly the inclusion or exclusion of Goods and Services Tax amounts) and in reporting back to the Committee on recommendations made in the Committee's reports.

Recommendation

14. The ANAO made one recommendation that Defence develop and document processes to report back to the Public Works Committee on recommendations made in the Committee's reports to Parliament where feedback has been requested.

Agency responses

15. Defence provided the following response to the audit:

The audit has confirmed that Defence complies with the requirements of the Public Works Act. To that end Defence notes that its two pass project development and approval processes, implemented in 2004, provide transparency, accountability and cost certainty for major capital facilities submissions to Government. This process also enables Defence to provide high quality information to the Public Works Committee during its enquiries.

16. Finance advised that the department supported the one recommendation made in the audit report.

Table 1

Project legislative and guidelines adherence

Year	Project Name	Reported value ex GST (million)	Legislative adherence	Guidelines adherence
Direct Procurement				
2005	Special Operations Working Accommodation and Base Redevelopment	\$207.70	✓	✓
2005	RAAF Base Amberley Stage 2	\$285.60	✓	✓
2005	Relocation of RAAF College	\$133.40	✓	✓
2006	Tactical Unmanned Aerial Vehicle Facilities Project	\$17.45	✓	✓
2006	Facilities to Upgrade Shoalwater Bay training area	\$11.16	✓	✓
2007	Defence Force School of Signals Redevelopment	\$101.30	✓	✓
2007	Lavarack Barracks Stage 4	\$207.20	✓	✓
2007	Australian Defence Force Facilities Redevelopment, Malaysia	\$23.60	✓	✓
2007	RAAF Base Pearce Stage 1	\$142.20	✓	✓
2007	RAAF Base Amberley Stage 3	\$331.50	✓	✓
Public Private Partnership				
2004	Headquarters Joint Operations Command (HQJOC) Project	\$318.08 ^(a)	✓	x ^(b)
2006	Provision of Facilities for Project Single LEAP Phase 1	\$406.00	✓	x ^(b)
2007	Provision of Facilities for Project Single LEAP Phase 2	\$1 200.00	✓	✓

Source: ANAO analysis of Defence documents

Notes: ^(a) March 2004 Statement of Evidence provided to the Committee, and is noted in the Statement as including buildings and infrastructure.

^(b) The non adherence to the guidelines relates to the requirement to advise the Committee of any significant changes to design, scope and related matters.

Recommendation

Set out below is the one ANAO recommendation included in the audit report, with the report paragraph reference and an indication of the responses received from Defence and Finance. The recommendation is discussed at the relevant part of this report.

Recommendation No.1

Paragraph 3.23

The ANAO recommends Defence develop and document processes to report back to the Public Works Committee on those recommendations made in the Committee's reports on Defence public works projects where feedback to the Committee has been requested.

Defence response: Agreed

Finance response: Supported

Audit Findings and Conclusions

1. Introduction

This chapter provides the background to the audit, information on the approval process for public works, the audit approach and the report structure.

Background

1.1 Under the *Public Works Committee Act (1969)* (the Act), any public work⁸ estimated to cost \$15 million or more must be referred to the Parliamentary Standing Committee on Public Works (the Committee).⁹ The Committee is required to report to both the House of Representatives and the Senate on public works referred to it. The Committee's terms of reference are contained in section 17(3) of the Act. Essentially, these are:

- the stated purpose of the proposed work and its suitability for that purpose;
- the need for, and advisability of, the work;
- the cost-effectiveness of the proposal;
- the amount of revenue the work will produce if that is its purpose; and
- the current and prospective public value of the work.

1.2 In early 2007, the Joint Committee of Public Accounts and Audit (JCPAA) advised the Australian National Audit Office (ANAO) that a priority¹⁰ of Parliament was for the ANAO to conduct a performance audit of the processes associated with the development of public works proposals by agencies that fall within the scope of the Public Works Committee. Against this background, the ANAO decided to undertake two related audits on this issue.

1.3 This first audit examines whether the Department of Defence's (Defence's) capital works projects have been submitted in accordance with the Committee's requirements for notification and review prior to entering into financial commitments for the works. A second audit, which is currently

⁸ A public work is defined as a work proposed to be done by the Commonwealth, or on behalf of the Commonwealth, and it includes construction, alteration, repair or destruction of buildings and other structures.

⁹ The Parliamentary Standing Committee on Public Works is also known as the Public Works Committee or the PWC.

¹⁰ Each year, the JCPAA consults with all other Committees of the Australian Parliament to identify the priorities of the Parliament for performance audits to be undertaken in the following financial year by the ANAO.

underway, is examining a sample of six construction projects, two of which are Defence projects, selected from the 58 reports released by the Committee during the tenure of the 41st Parliament (between December 2004 and September 2007). The audit will assess the planning and delivery of a sample of capital works projects (including two Defence projects), the extent to which the selected projects have met expectations, and the extent to which relevant sponsoring agencies have complied with the requirements of the Act and approved procedures. This second audit is expected to table in the Spring 2008 Session of Parliament.

Approval of public works

1.4 The Public Works Committee is one of the oldest investigative Parliamentary committees, having been established in 1913. It provides Parliamentary scrutiny where large sums of public funds are being expended by government departments and agencies on capital assets. The Department of Finance and Deregulation (Finance) administers the Act and is responsible for working with agencies to ensure that any work estimated to cost more than the threshold amount of \$15 million is referred to the Committee.

1.5 The Act provides that a public work, for which the estimated cost exceeds the threshold amount requiring referral to the Committee, may not be commenced unless either such a referral has occurred or certain specific conditions are met, namely that the work:

- (a) is urgent;
- (b) is for defence purposes and referral to the Committee is determined to be against the public interest (for example, for security reasons); or
- (c) is repetitive (for example, general maintenance work).¹¹

1.6 The agency that is carrying out or contracting such public works prepares a submission to the Committee. The submission includes information on why the work is necessary, other options considered, estimated cost, and any plans or drawings that will help the Committee understand the purpose and scope of the work.

¹¹ See sub-section (8) of section 18 of the Act. There is no guidance or examples of what constitutes an urgent, defence purpose or repetitive work in the Committee's Manual of procedures for departments and agencies, although it does note that when an exemption is sought officers of the agency should attend a meeting of the Committee to explain the background to, and need for, the exemption.

1.7 Subsequently, the Committee holds a public hearing in relation to public works projects referred to it. Members of the Committee intending to attend the hearing on a particular project will generally inspect the proposed construction site prior to the hearing.¹² At the public hearing, officers from the sponsoring agency appear before the Committee and any organisation or person who has sent in a submission to the Committee on the particular project is usually invited to give evidence. Private hearings, involving the Committee members and the agency, are also held to allow discussion about cost details of the work, and may include sensitive tendering information.

1.8 After evidence has been collected, the public hearing held, and responses made to any questions on notice, the Committee prepares a report to present to Parliament. The Committee can make any recommendations it sees fit within the bounds of the Act, and can recommend the public work does not proceed. The Committee's preference is always to work with the relevant agency to reach an agreement.¹³

1.9 Once the report is tabled in Parliament, a motion is made by the Minister for Finance and Deregulation (or delegate) to proceed with the work. This is the 'expediency motion' and generally supports the Committee's recommendations. The Act provides that work may not commence on a public work referred to the Committee until the House of Representatives has 'resolved that it is expedient to carry out the work.'¹⁴

The Committee's Manual

1.10 In November 2006 the Committee, in consultation with Finance, produced a revised edition of the Committee's Manual of Procedures for Departments and Agencies. The Committee's Manual is a guide to inform stakeholders of the Committee's processes and provides practical information, including a workflow (see Figure 1.1) that sets out the order in which events take place when a project is identified as needing to be referred to the Committee. The timeline also links the reader to specific information within the Committee's Manual.

¹² The public hearing is usually conducted either at or close to the site, following the Committee members' inspection.

¹³ The Committee Secretariat advised the ANAO that the Committee will work with the agency to resolve issues rather than recommend a public work does not proceed.

¹⁴ This requirement is set out in subsection (7) of section 18 of the Act.

Figure 1.1

Public Works Committee general timeline for public works referral and approval



Source: Public Works Committee Manual of Procedures for Departments and Agencies

1.11 The previous version of the Committee's Manual was released in November 2004, and dealt only with public works contracted using direct procurement¹⁵. New editions of the Committee's Manual provide some information on works that come before the Committee that are financed through Public Private Partnership (PPP) financing arrangements. PPPs are a method of financing whereby a long term contract is entered into between a private company (or consortium) and a government agency for the provision of goods and services.¹⁶

1.12 The timeline of when to present information to the Committee for PPPs has now been set out in the Committee's Manual (see Figure 1.2). This timeline recognises that there may not be definite cost information available when the project is presented to the Committee. The Committee's Manual advises agencies that a report is to be issued to the Committee once the preferred tenderer has been selected, but prior to entering the PPP contract. If there is significant change to the public works component, the Committee can require a further review of the project.

1.13 Few PPP arrangements have been referred to the Committee to date. Three capital works projects for Defence have progressed as PPPs: the Headquarters Joint Operations Command (HQJOC) Project, the Single Living Environment and Accommodation Precinct (LEAP) Phase 1 project and the Single LEAP Phase 2 project.¹⁷ The Single LEAP Phase 2 project was referred to the Committee after the November 2006 version of the Committee's Manual became available. However, the HQJOC and Single LEAP 1 projects were both referred to the Committee before the new version of the Committee's Manual was produced.

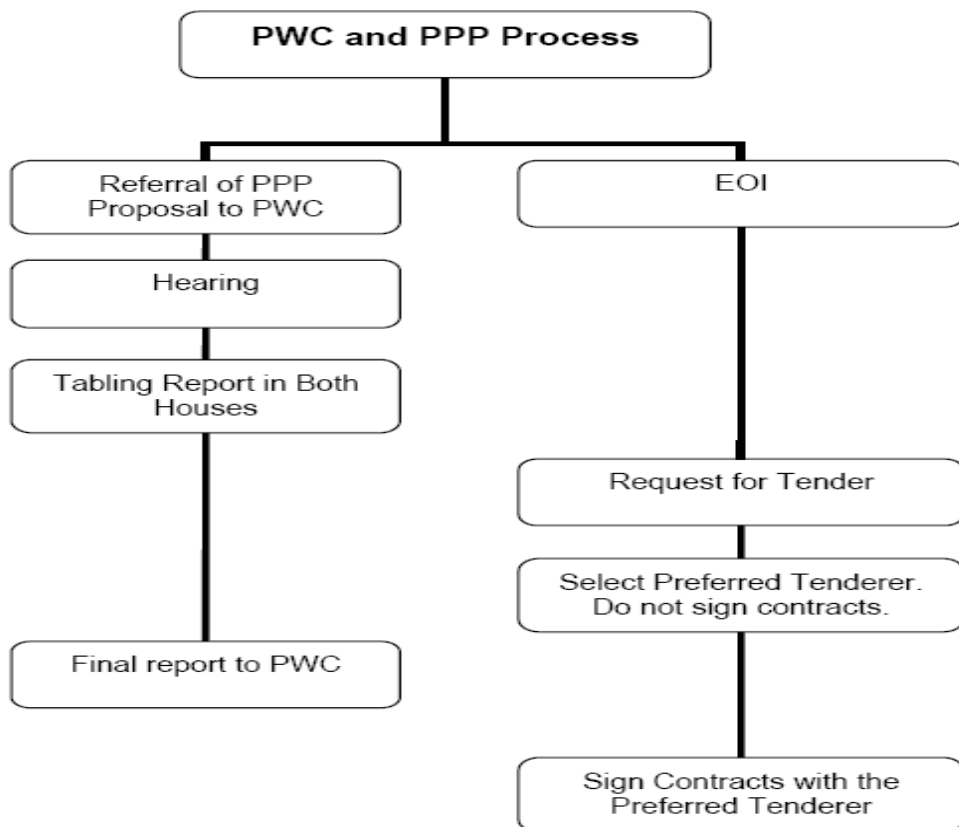
¹⁵ Defence uses two methods for financing projects. Most commonly, direct procurement is used. This involves a standard set of contracts to pay for the required work at the time of construction. Less common are Public Private Partnerships (PPPs).

¹⁶ The terms Private Financing Initiative, Private Financing and PPP are used interchangeably.

¹⁷ See Table 1.1 for a brief description of these projects.

Figure 1.2

Public Works Committee's timeline for public works financed through a Public Private Partnership



Notes: EOI: Expression of Interest

Source: Public Works Committee Manual

Audit approach

1.14 The objective of the audit was to review Defence capital works projects to assess whether they have been submitted in accordance with the Committee's requirements for notification and review prior to entering into financial commitments for the works. The audit also examined the procedures applied by Defence to refer public works projects to the Committee, and identified administrative practices that may improve adherence with relevant legislative and administrative referral requirements.

1.15 In order to test Defence's adherence to the Committee's requirements regarding notification and review prior to entering into financial commitments for works, 13 projects from a possible 22 referred by the department between mid 2004 and mid 2007, were reviewed in detail during fieldwork. The 13 projects selected are a cross section of projects, from the very large and complicated (for example, provision of facilities for the Single LEAP Project), to the relatively straightforward (for example, the facilities upgrade to the Shoalwater Bay Training Area). The sample of projects include 10 that were financed through direct procurement, and three that are to be financed using Public Private Partnerships (PPPs).

Table 1.1

Defence Public Works Projects referred to the Committee between mid 2004 to mid 2007 selected for review in this audit

PROJECT	DESCRIPTION
Direct procurement projects	
Special Operations Working Accommodation and Base Redevelopment, Holsworthy, NSW.	The project is to deliver new and refurbished facilities to allow for the collocation of special operations staff and for upgrade and replacement works of existing services.
RAAF Base Amberley Redevelopment Stage 2, QLD.	The project is to deliver new buildings and infrastructure for the newly purchased air-to-air refuelling aircraft; upgrade runways for the aircraft; and upgrade the base's engineering services.
Relocation of RAAF College, East Sale Victoria and Wagga Wagga NSW.	The project is to deliver updated facilities (accommodation, training rooms) in the RAAF bases in East Sale and Wagga Wagga due to the move of college elements from the Point Cook and Edinburgh bases.
Tactical Unmanned Aerial Vehicle Facilities Project, Gallipoli Barracks, Enoggera, QLD.	The project is to deliver new and refurbished buildings to house the vehicles and staff to operate them.
Facilities upgrade to the Shoalwater Bay training area, Rockhampton, QLD.	The project is to deliver a variety of simulated city buildings to allow for training exercises and a command centre.
Defence Force School of Signals Redevelopment, Simpson Barracks, Watsonia, VIC.	The project is to build new and refurbish existing training facilities and trainee accommodation, and remove an existing fuel depot.
Lavarack Barracks Redevelopment Stage 4, Townsville, QLD.	This project is to update facilities for three regiments based there, upgrade the gymnasium and build a new facility for medical services.

PROJECT	DESCRIPTION
Royal Malaysian Air Force Base Butterworth, Malaysia, Australian Defence Force Facilities Rationalisation.	The project is to replace and refurbish facilities that the Australian Defence Force use.
RAAF Base Pearce Redevelopment Stage 1, Pearce, WA.	The project is to build new facilities, refurbish existing facilities, and demolish facilities no longer required, and bring accommodation up to standard.
RAAF Base Amberley Redevelopment Stage 3, QLD.	The project is to deliver 14 discreet elements, including: new accommodation and recreational facilities; new facilities for the dental services section; and new accommodation and dog kennels.
Public Private Partnership Projects	
Headquarters Joint Operations Command Project, Bungendore NSW.	The project is to develop a new building on an undeveloped site to collocate operations command staff currently based at other sites. The project is to be delivered using a private public financing arrangement for the building, with conventional contracts used for the information technology component.
Provision of Facilities for Project Single LEAP – Ph 1.	Project Single LEAP (Living Environment and Accommodation Precinct) is to deliver new accommodation rooms for Defence Force Personnel living on various bases around mainland Australia. Phase 1 is to build 1 295 rooms identified as most urgently in need at Holsworthy NSW, RAAF Base Amberley QLD and Gallipoli Barracks QLD.
Provision of Facilities for Project Single LEAP – Ph 2.	Project Single LEAP (Living Environment and Accommodation Precinct) is to deliver new accommodation rooms for service personnel living on various bases around Australia. Phase 2 is to build a further 3 535 rooms identified as most urgently in need at 17 bases (54 sites).

1.16 The audit did not test the extent to which the projects included in the ANAO's sample have delivered in accordance with expectations. As discussed in paragraph 1.3, ANAO is currently conducting a second audit which is assessing six construction projects (including two Defence projects). In addition to assessing the extent to which these six projects have delivered in accordance with expectations, the second audit will also assess the planning and delivery of capital works projects by sponsoring agencies and the extent to which sponsoring agencies have complied with the requirements of the Act and approved procedures.

1.17 Audit fieldwork was conducted between August and October 2007. The audit team met with Defence's Infrastructure Asset Development Branch and Strategic Infrastructure Projects Branch, and Finance's Special Claims and Land Policy Branch and Procurement Branch. The ANAO provided three issues papers to Defence, and extracts to Finance and the Secretariat of the Public Works Committee in November 2007. This was followed by a proposed report issued under Section 19 of the *Auditor-General's Act 1997*, which was provided to Defence, Finance and the Department of the House of Representatives. Written responses were received from Defence and Finance. The Secretariat of the Public Works Committee advised on 7 April 2008 that the Department of the House of Representatives did not intend to provide a written response to the proposed report.

1.18 The audit was conducted in accordance with the ANAO auditing standards at a cost to the ANAO of \$170 000.

Report structure

1.19 The remainder of this report is in two chapters. Chapter 2 examines the procedures within Defence for developing capital works proposals and referring projects to the Committee. Chapter 3 examines Defence's adherence to the Committee's requirements in relation to the referral of projects prior to entering into financial commitments for works and follow up of the Committee's recommendations.

2. Procedures within Defence

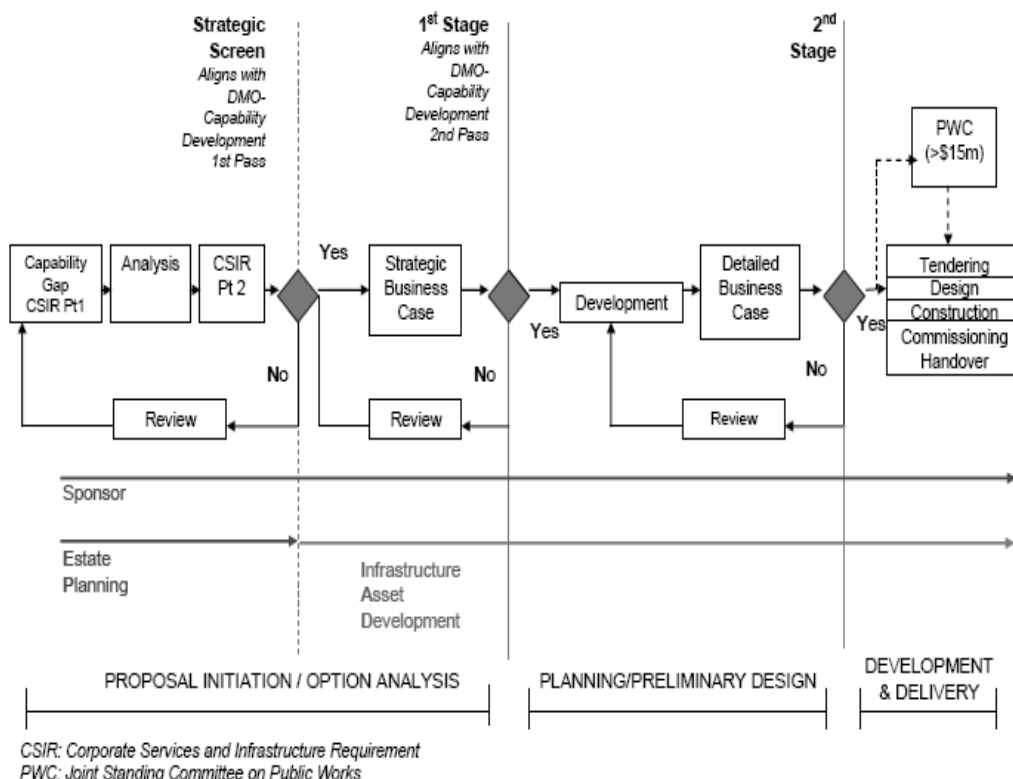
This chapter examines the procedures within Defence for developing a capital works proposal and referring projects to the Public Works Committee.

Developing a capital works proposal

2.1 The process for developing a Defence capital works proposal using direct procurement (the asset development process) is shown in Figure 2.1. The asset development process mirrors the two pass approval system set out in the Defence Capability Development Manual 2006, for seeking Government approval for major capital equipment acquisition projects.

Figure 2.1

Asset Development Process



Source: Department of Defence

2.2 Finance is involved from the start of the project's development, with a Finance representative sitting in on the Defence Infrastructure Sub-committee

as an observer. Finance also ensures that the projects requiring joint Ministerial approval or Cabinet approval are identified, costed and referred for approval.

What Defence provides to the Committee

2.3 In accordance with agreed administrative arrangements, at the start of each calendar year, Defence provides Finance with a list of projects the department proposes to refer to the Committee. Finance and Defence discuss projects coming up throughout the year. The agencies maintain a cooperative relationship when referring projects to the Committee, and when developing material to enable the expediency motion.

2.4 Defence's Infrastructure Management System provides a detailed checklist of information to be prepared for the Committee. The key tasks include:

- preparing referral documentation, to be forwarded to Finance, to allow the referral to be presented to Parliament;
- preparing the statement of evidence, gaining Ministerial clearance and sending copies to the Committee Secretariat around six weeks prior to the planned public hearing date;
- preparing confidential cost documents;
- providing the Committee Secretariat with the list of witnesses who will appear at the public and confidential hearings;
- organising the site inspection and briefing;
- organising the public hearings (venue, booking Defence staff travel, arranging vehicles for the Committee and Secretariat members to get to the hearing, catering and so on¹⁸);
- responding to any questions taken on notice at the hearings; and
- preparation of the expediency notice, to be forwarded to Finance.

2.5 Defence provides a total figure for the cost of the work in its public submission on each project. To allow the Committee to make an informed recommendation on the cost effectiveness of a project, the department provides further detail to the Committee including confidential cost information. The cost details are discussed, as required by the Committee, in

¹⁸ The Committee Secretariat advised the ANAO that they undertake these arrangements where the hearings are held at Parliament House, or public venues, rather than Defence venues.

private hearings. This is the case whether the project is financed through direct procurement or by a PPP.

2.6 The confidential cost information is provided to the Committee no later than two weeks prior to the public hearing. For direct procurement projects, this information comprises a document indicating the expected cost of items like demolition, building construction, furniture and equipment, design and management fees, and a Defence contingency¹⁹. The November 2006 version of the Committee's Manual advises agencies that confidential costing papers prepared in relation to PPPs should include the raw Public Sector Comparator²⁰ and an identification of the risks to the project and where they are best assigned (to the private company or consortium taking on the project, or retained by the Commonwealth).

Direct procurement

2.7 Direct procurement is the most common method of developing and delivering on Defence capital works projects. Defence has an online (intranet) manual (the Infrastructure Management System) which provides information for Defence staff working on direct procurement projects.

2.8 The Infrastructure Management System provides a wide range of information for project officers. Specific information on the Committee requirements is provided, including a link to the Committee homepage, for access to the Committee's Manual and the Act. There is good supporting information for project officers on the steps required to prepare a project to the point where the Parliamentary expediency motion is passed.

2.9 However, the system does not include advice on when to report back to the Committee after the expediency motion should this be required, either because there are recommendations in the Committee report on the project that need to be addressed, or because the project's design, scope or cost change. In addition, parts of the Infrastructure Management System have not been

¹⁹ The Defence contingency amount provides for un-anticipated items that will increase the cost of a project. For example, finding that there is asbestos that needs removing when it wasn't expected that this would be an issue or to provide for changes in design required to accommodate necessary items that were originally overlooked.

²⁰ The raw Public Sector Comparator (also called the Project Cost Benchmark) is the base level of costing of the project. It does not include any allocation of value for risks and contingencies, which may affect the cost of the project. The Public Sector Comparator is developed to provide the benchmark costs against which PPP proposals can be prepared and it is also provided to the bidders for PPPs.

updated to reflect the current estimated cost level at which projects are required to be referred to the Committee.²¹

2.10 The Infrastructure Management System currently contains a list of tasks to be undertaken within Defence up to the Parliamentary expediency motion. A checklist of all tasks and timeframes for the Committee process, both before and after the expediency motion, would be useful to ensure all tasks are completed and signed off by the appropriate people. The checklist could either be printed and completed, or used as an updateable online file. In either case, the checklist could be stored on the Defence Document and Record Management System (DRMS) for future reference²². Defence advised the ANAO that it is currently progressing a review of the department's processes regarding referral of projects to the Committee.

Direct procurement development and delivery phases

2.11 The development stages (see Figure 2.1) of a project are intended to allow it to be more accurately costed, and designed to a 30 per cent level of completeness, by the time the project seeks final approval.

2.12 The strategic business case (the first approval stage) provides a review of early development work prior to committing significant development funds to the project. The project is developed to a level of detail that is intended to provide a +/-30 per cent degree of cost certainty and a feasible construction schedule. Depending on the capital cost, development costs, sensitivity, complexity or risks associated with the project, the project may be approved within Defence, or by Government.

2.13 The Defence Private Finance Manual states that any project that is likely to involve the capital expenditure of more \$20 million should be screened to determine if a PPP should be used to fund the project. This usually occurs at the strategic business case development stage. Many of the capital works projects that Defence delivers are over \$20 million and so are required to be screened in this way. In those cases where a PPP financing option for a project was considered but rejected this was primarily due to:

²¹ Currently, the threshold estimated cost above which works are required to be referred to the Committee is \$15 million. Some parts of the Infrastructure Management System still refer to the previous threshold of \$6 million.

²² Finance advised the ANAO that it would be happy to provide any support Defence may want in developing these supporting processes.

- the length of time private financing administration and tendering processes add to a project. This can be as much as 24 months, with associated costs for Defence resources, and price escalations over time; and
- there being little difference between the cost of financing the project through direct procurement or a PPP (particularly given that at the strategic business stage the accuracy of costing the Public Sector Comparator is +/-30 per cent).

2.14 The preparation of the detailed business case (the second approval stage) includes the refinement of the project design to a stage where it is considered by Defence that the final cost of the project, including any ongoing operating costs, can be estimated to a +/-10 per cent degree of certainty. To achieve this degree of certainty a considerable amount of design, cost planning and construction scheduling is undertaken by consultant architects, engineers and in some cases by construction contractors.

2.15 To assist in the development of the detailed business case, Defence engages a Project Manager/Contract Administrator²³ (PM/CA) on a contract for the development phase, with the eventual delivery of the construction phase of the project being dependant on Government and Parliamentary approval. The department maintains a panel of PM/CAs and will request tenders from members of the panel when a project reaches the point where the development of a strategic business case is required.

2.16 Once a PM/CA is contracted, the decision is taken as to whether to use a Managing Contractor or a Head Contractor to build the planned capital work²⁴. Where a Managing Contractor is to be used, they may also be contracted for development to ensure that they, the designer, cost planner and PM/CA have a common understanding of the requirements of the project. Defence advised that this methodology results in a much higher level of scope and cost certainty for projects, although it can be more expensive initially.

2.17 The PM/CA and Managing Contractor usually have two stage contracts – stage one for development and stage two for delivery. The standard suite of contracts Defence use include a clause to the effect that progress to the delivery stage is dependant upon Parliamentary approval of the project (the Committee

²³ The PM/CA undertakes the management of the capital asset project on Defence's behalf.

²⁴ Managing Contractors hire companies or subcontractors to do all of the building works. Head Contractors do the building work themselves. Managing Contractors are usually used for large and complicated building projects, whereas Head Contractors are used for more straight forward projects.

process) and satisfactory performance in the development stage. Defence advised that where either are not met, the delivery stage of the contract will not go ahead.

Public Private Partnership financing

2.18 The Department of Finance and Deregulation's Finance Management Guide No.16 advises that a PPP may provide advantages compared to other forms of procurement such as:

- it can contain incentives for the public and private sector partners to achieve the optimal allocation of the risks associated with the provision of public services. The optimal allocation occurs when risks are borne by the partner most capable of managing them;
- it can allow the public sector to focus on delivering the core service it is required to provide, while the private sector partner supplies the supporting infrastructure and service;
- it can facilitate better life cycle planning by transparently recognising the costs and risks associated with the whole life of the required service; and
- it can effectively implement the 'payment for performance' principle by placing the private sector's remuneration at risk, contingent on their ability to meet the public sector's requirements.²⁵

2.19 Finance's Guide further advises that PPPs should be used where they can offer superior value for money relative to other procurement methods.²⁶

2.20 Public private partnership (PPP) financing arrangements are comparatively rare in Defence. As noted in paragraph 1.13, three out of 22 Defence projects referred to the Committee between mid 2004 to mid 2007 have been or are expected to be financed in this way.

2.21 The following documentation is available to Defence project officers developing a project using a PPP funding arrangement:

- Defence Private Financing Manual, updated July 2006;

²⁵ Department of Finance and Deregulation Financial Management Guide No. 16, Introductory Guide to Public Private Partnerships, December 2006. p. 2.

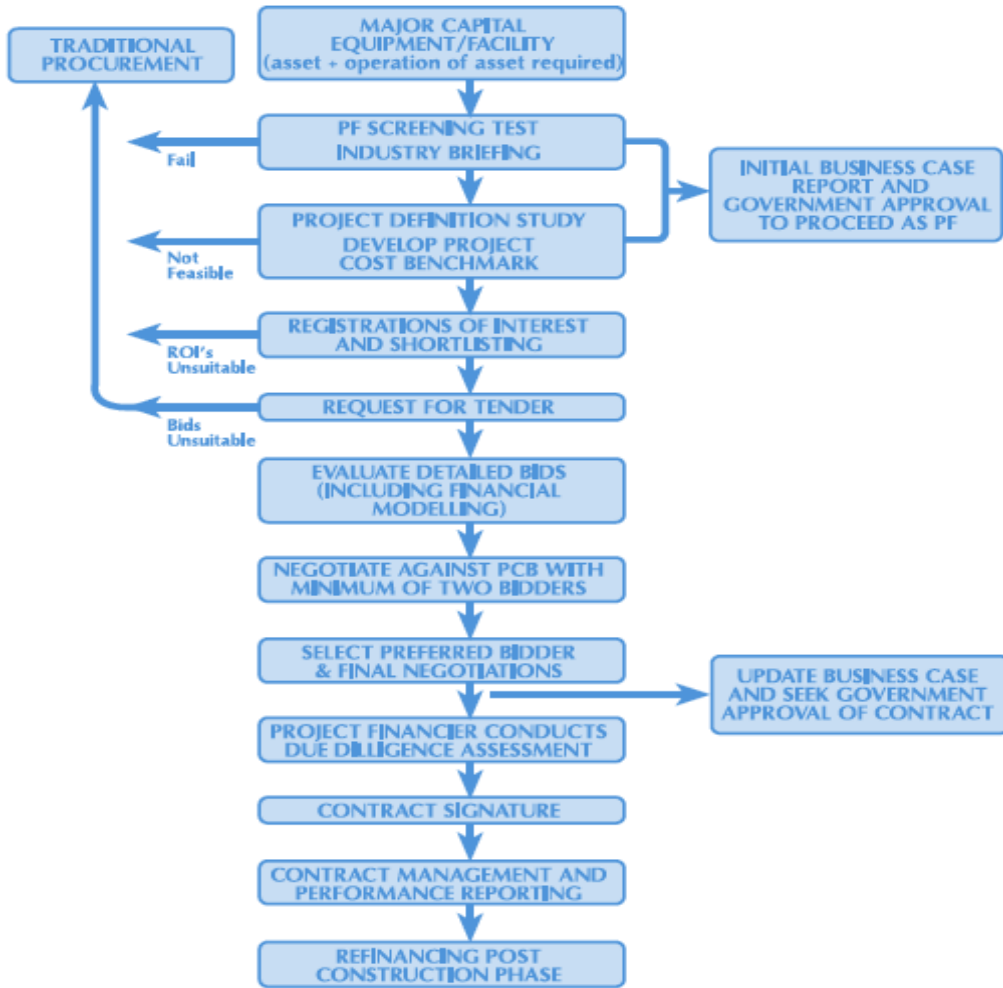
²⁶ Value for money refers to the best available outcome after taking account of all benefits, costs and risks over the whole life of the procurement.

- Department of Finance and Deregulation²⁷ Finance Management Guides 16 to 21 – guides to Public Private Partnerships, all updated December 2006; and
- Defence Corporate Services and Infrastructure Group, Private Financing of Infrastructure Draft Feasibility Documentation, updated December 2003.

2.22 The Defence Private Financing Manual provides process flow information to assist project officers preparing documents for PPPs. The process flow includes the identification of points at which a PPP financing option might not be deemed suitable, and traditional procurement (that is, direct procurement) is then used (see Figure 2.2).

²⁷ These guides were issued by the department under its former title of Department of Finance and Administration.

Figure 2.2
Defence Private Financing Procurement Flow Chart



Source: Defence

2.23 Information relating to PPP initiatives is not maintained in the Infrastructure Management System. To ensure that asset development policy and processes are maintained in one site, to be used by all Defence capital works project officers, the Infrastructure Management System could be improved by incorporating information about this method of procuring and managing capital works projects. This would help to ensure that corporate knowledge and guidelines relating to all capital works projects are

documented and centrally stored. Defence advised that it is planning to undertake this body of work.

Reviews and quality assurance

2.24 To ensure administrative processes associated with capital works projects are being complied with, Defence advised that it has a number of checking and quality control mechanisms in place, including:

- audits undertaken by the Inspector-General Division²⁸;
- reviews undertaken by the Infrastructure Division²⁹;
- monthly financial progress reviews of each project within the Infrastructure Asset Development Branch³⁰; and
- quarterly project 'health checks' within the Infrastructure Asset Development Branch.

2.25 The Infrastructure Division's reviews cover various stages of the asset development process, including strategic and detailed business case development, construction and handover. Defence advised that to date the reviews have not covered adherence to the Public Works Committee referral process.

2.26 Defence further advised that the monthly and quarterly reviews that the Infrastructure Asset Development Branch conducts of direct procurement projects are an effective review mechanism to ensure that projects are checked and discussed on a regular basis. Defence considers that this process ensures major issues or problems can be identified and resolved in a timely fashion, and that project managers are supported in their work. The monthly and quarterly review processes are not included on the Infrastructure Management System.

2.27 The ANAO considers that there would be benefit in Defence ensuring that compliance with the Public Works Committal referral process is included in its ongoing review program monitoring capital works projects.

²⁸ The Inspector-General Division conducts internal Defence audits.

²⁹ The Infrastructure Division manages all Defence buildings, infrastructure and property.

³⁰ The Infrastructure Asset Development Branch manages all traditionally procured capital works projects.

3. Adherence to Public Works Committee Requirements

This chapter examines Defence's adherence to the Committee's requirements in relation to the referral of projects prior to entering into financial commitments for the works and follow up of the Committee's recommendations.

Projects over the past four years

3.1 As previously discussed, between mid 2004 and mid 2007, 22 Defence capital works projects were referred to the Committee. In respect of all 22 of these projects, Defence submitted statements of evidence and confidential cost information to the Committee to allow the Committee to consider and report upon the individual projects.

3.2 Thirteen of these projects were selected for review in detail by the ANAO during fieldwork, having regard to adherence to both the requirements of the Act and the Committee's Manual. These 13 selected projects represent 78 per cent of the total estimated cost of the 22 Defence projects referred to the Committee over the relevant three year period. The projects reviewed have reported indicative cost ranges from \$11.16 million to \$1.2 billion³¹.

3.3 The three projects financed, or proposed to be financed, using a PPP arrangement were all included for review, as part of the audit sample of 13. The requirements of the Committee when projects are referred are essentially the same for projects financed using direct procurement and those financed using a PPP. An exception is the requirement in the case of a PPP for the sponsoring agency to provide a report to the Committee following the selection of the preferred bidder but before the signing of a contract. This requirement is in recognition of the fact that there may not be definite cost information available when the project is presented to the Committee. If there is significant change to the public works component, the Committee can require a further review of the project.

³¹ The costs noted are as reported to the Public Works Committee, and are all excluding GST.

Table 3.1

Project legislative and guidelines adherence

Year	Project Name	Reported value ex GST (million)	Legislative adherence	Guidelines adherence
Direct Procurement				
2005	Special Operations Working Accommodation and Base Redevelopment	\$207.70	✓	✓
2005	RAAF Base Amberley Stage 2	\$285.60	✓	✓
2005	Relocation of RAAF College	\$133.40	✓	✓
2006	Tactical Unmanned Aerial Vehicle Facilities Project	\$17.45	✓	✓
2006	Facilities to Upgrade Shoalwater Bay training area	\$11.16	✓	✓
2007	Defence Force School of Signals Redevelopment	\$101.30	✓	✓
2007	Lavarack Barracks Stage 4	\$207.20	✓	✓
2007	Australian Defence Force Facilities Redevelopment, Malaysia	\$23.60	✓	✓
2007	RAAF Base Pearce Stage 1	\$142.20	✓	✓
2007	RAAF Base Amberley Stage 3	\$331.50	✓	✓
Public Private Partnership				
2004	Headquarters Joint Operations Command (HQJOC) Project	\$318.08 ^(a)	✓	x ^(b)
2006	Provision of Facilities for Project Single LEAP Phase 1	\$406.00	✓	x ^(b)
2007	Provision of Facilities for Project Single LEAP Phase 2	\$1 200.00	✓	✓

Source: ANAO analysis of Defence documents

Notes: ^(a) March 2004 Statement of Evidence provided to the Committee, and is noted in the Statement as including buildings and infrastructure.

^(b) The non adherence to the guidelines relates to the requirement to advise the Committee of any significant changes to design, scope and related matters.

Direct procurement projects

3.4 Of the 13 projects reviewed, 10 were procured directly by Defence. ANAO fieldwork indicated that all 13 projects reviewed met the Committee's requirements in relation to the referral of projects.

3.5 There are three key requirements of entities under the Act when referring projects to the Committee, namely:

- the need to refer projects where they are estimated to cost at or above the relevant dollar threshold amount in the Act (currently \$15 million);
- that works must not be entered into prior to Parliamentary approval³²; and
- that witnesses as required will appear before the Committee at hearings.

Referral of projects

3.6 As noted in paragraph 2.3, at the start of each year, Defence provides Finance with a list of all the projects it expects to refer to the Committee in that year. Finance also reviews the department's Portfolio Budget Statements, and has a staff member on the Defence Infrastructure Sub-committee. In this way, Defence and Finance both make sure all required projects are identified and referred to the Committee.

3.7 All 13 projects reviewed were at or above the threshold amount in the Act at the time of referral (noting the change in threshold level in November 2006 from \$6 million to \$15 million). Defence advised the ANAO that if a project is close to the level of the threshold, given the accuracy margin of +/- 10 per cent for costs around the time of referral, Finance or the Committee Secretariat is contacted for advice.

3.8 Once a project is identified as requiring referral, there is a step by step task list on the Infrastructure Management System to guide project officers working on direct procurement projects through the various tasks involved in completing all the paperwork and processes associated with the referral.

³² Parliamentary approval is gained once the House of Representatives resolves that it is expedient to carry out the work. The expediency motion is moved following the presentation of the Committee's report to both Houses of Parliament.

Starting the work and entry into contacts

3.9 None of the projects reviewed had entered into construction (delivery phase) contracts prior to Parliamentary approval.

3.10 The issue of how much work (and therefore expenditure) can and should be done before the Committee referral and Parliamentary approval takes place has been raised by the Committee and within Defence on a number of occasions. The issue of public money being expended on developing a project to a stage that provides confidence in the costs was raised directly with Defence in relation to the Single LEAP Phase 2 project, and is covered in more detail in paragraph 3.30.

3.11 The completion of design documents and the preparation of tender and contract documents, related to the above issue, was also raised within Defence in 2005 regarding the RAAF Base Amberley Stage 2 project. Specifically, Defence sought advice from the project's contracted legal advisors on whether completion of design and preparation of tender (contract) documentation prior to referral to the Committee breached the requirements of the Act. A legal opinion on this matter was obtained by Defence which states:

The *Public Works Committee Act 1969 (Commonwealth)* (PWC Act) does not itself prohibit the preparation of design before PWC approval.

Appearance before the Committee

3.12 In respect of all projects reviewed, Defence witnesses appeared before the Committee for the hearings conducted into the projects. Where further information was requested on notice at the hearings, the information was provided prior to the Committee presenting the report to Parliament, and the expediency motion. Information on who will be appearing before the Committee in respect of a particular project, contained in witness forms, are prepared prior to the hearing and forwarded to the Committee Secretariat.

Committee Manual Adherence

3.13 Defence provided the Committee with statements of evidence for the 10 direct procurement projects reviewed. The documents were similar in style and content, even though a standard template was not used. The Committee's Manual lists the requirements for statements of evidence. Key items to be provided in the statements of evidence are:

- project objectives;
- the need for the work;

- environmental and heritage considerations;
- location and scope;
- consultation conducted or proposed; and
- broad (total) project costs.

3.14 Where a project included items specific to the project, such as land acquisition, childcare needs or acoustics, these matters were addressed in the statement for that particular project. In respect of none of the projects reviewed, was there evidence that the Committee requested more information be included in the statements of evidence after they had been submitted to the Committee.

Confidential costs

3.15 Defence provided the Committee with a confidential cost document for each of the 10 direct procurement projects reviewed. The documents were not uniform in style or content, nor was it mentioned consistently if the estimated cost included Goods and Services Tax or not. The Committee's Manual lists the requirements for confidential cost documents, and where Defence has provided the information as noted in the Committee's Manual is listed in Table 3.2. Again, in no case reviewed was there evidence that the Committee requested more information be included in the confidential cost reports once they had been submitted to the Committee, although Defence witnesses can be asked questions on any matter relating to costs at the confidential hearings, or be included as recommendations in the Committee's report.

Table 3.2**Defence direct procurement cost submissions**

Requirement	Defence Submissions	Comment
Cost of building(s)	10	
Land costs	nil	None of 10 projects required a land purchase
Cost of external works and services	10	
Miscellaneous – demolition, decontamination	10	
Relocation costs	6	Not always required, and not always reported on
Cost provisions for phasing	2	Noted as escalation costs where reported
Fees for project management, consultancies etc	10	
GST	1	1 case indicated the cost excluded GST ^(a)
Contingency and escalation allowances	10	
Out turned costs at current prices	10	

Note: ^(a) Defence advised that cost submissions do not generally include GST although this is not specifically noted on the cost submissions.

Source: ANAO analysis of Defence documents

Concurrency

3.16 The Committee's Manual does allow for some activity to start on the public work after the public hearing, but before Parliamentary approval has been achieved. The Committee's Manual states:

Concurrent documentation is the preparation of contract documentation before the committee has completed its inquiry and reported to parliament.

Concurrent documentation should only be sought when it can be justified by the necessity for the project to be completed by a particular time and when the deadline cannot be met by other means.

Sponsoring agencies should consult with the Committee before the resources required for concurrent documentation are committed. The Committee requires a letter stating the reasons for requesting approval of concurrent

documentation. Application for the concurrent documentation can only be made following the public hearing.³³

3.17 A request for concurrent documentation was sought in one case of the 13 projects examined. This was the RAAF Base Amberley Redevelopment Stage 2 project, where the shortened sitting period had meant the Committee report was tabled and Parliamentary approval³⁴ occurred later than Defence had anticipated. The concurrent documentation was sought for three specific contracts relating to this project. This was because the items to be procured had long lead times (either due to the complexity of manufacturing or because an item had to come from the United States of America) or because the work to be undertaken was sequential, and needed to be done before any other work could occur. In this case, in October 2005, Defence wrote to the Committee requesting agreement to enter into contracts before Parliamentary approval. The Committee granted Defence's request, in order that procurement processes might commence prior to the tabling of the Committee's report.

Site visits

3.18 The Committee's Manual notes the requirement for a site inspection to enable the Committee members to familiarise themselves with the setting of a proposed work, the condition or extent of any existing facilities, any unusual features or characteristics, matters concerning local geography that may have been raised in submissions and, generally, to obtain an appreciation for a particular location.

3.19 Of the 10 direct procurement projects examined, the nine projects that were for works in Australia included a site inspection for the Committee, arranged and conducted by Defence. In the one case where the work was overseas, RMAF Butterworth in Malaysia, a site inspection was not held. The public hearing was held in Canberra, and photographs of the site were provided during the hearing to allow the Committee to obtain a picture of the requirement for and planned scope of the works.

Follow up on recommendations

3.20 Even after the Committee's report has been tabled, there may be follow up work for Defence to do. The Infrastructure Management System has generally sufficient information on what must be done to prepare for the

³³ Parliamentary Standing Committee on Public Works Manual of Procedures for Departments and Agencies, November 2006. p. 10.

³⁴ Parliamentary approval is the expediency motion presented to Parliament.

referral of a project to the Committee and for the public hearing, but there is a general lack of guidance on what should be done following the publication of the report and grant of Parliamentary approval. If the Committee's report includes recommendations that certain tasks be undertaken this needs to be addressed. In addition, Defence is required to keep the Committee informed of any significant changes to projects. A regular, documented, review mechanism would assist Defence to report back to the Committee on action taken in response to any recommendations made. The specifics of this process could be discussed with the Committee Secretariat and Finance, as these arrangements may be applicable to other agencies.

3.21 The Committee made a total of 32 recommendations in relation to the 10 direct procurement projects in the ANAO's sample. The Committee requested that a report from Defence be provided for 12 of the 32 recommendations. The recommendations related to:

- information on contamination (two cases);
- information on water consumption and savings (two cases);
- further advice as to costs or savings (three cases);
- more specific details of buildings to be demolished (three cases);
- the need to update the Committee if the project changed (one case);
and
- Defence to provide development funding details to the Committee (one case).

3.22 Table 3.3 identifies which projects required Defence to report back to the Committee on recommendations made on the direct procurement projects. Some of the reports cannot be provided until the project is finished or substantially underway³⁵. Given the long term nature of some of the projects, and the requirement to report to the Committee at various stages, and at the end of the project in some cases, a regular review mechanism would support enhanced implementation of those Committee recommendations where feedback to the Committee is required.

³⁵ For example, the Committee requested that Defence report back on any savings associated with the redevelopment of Lavarack Barracks. The identification of savings is not likely to occur until after the project has been completed.

Table 3.3**Committee recommendations and reporting**

Project	Number of recommendations (a)	Date of Report	Feedback to Committee
Holsworthy: Special Operations Working Accommodation and Base Redevelopment	1	Aug 2005	Not required
RAAF Amberley Stage 2	1	Nov 2005	Not required
RAAF College Relocation: RAAF East Sale and RAAF Wagga	2	Nov 2005	Yes, April 2007
Enoggera: Tactical Unmanned Aerial Vehicles Facilities	1	Aug 2006	Not required
Shoalwater Bay: Shoalwater Bay Training Area Facilities Upgrade	2	Sep 2006	Not required
Watsonia: Defence School of Signals	5	May 2007	Not at this stage ^(b)
Townsville: Lavarack Barracks Stage 4	10	May 2007	Not at this stage ^(b)
RMAF Butterworth: Australian Defence Force Facilities Rationalisation	1	Aug 2007	Not required
RAAF Pearce Stage 1	4	Aug 2007	Not at this stage ^(b)
RAAF Amberley Stage 3	5	Sep 2007	Not at this stage ^(b)

Source: ANAO analysis of Defence documents

Notes: (a) The Committee made a total of 32 recommendations in relation to these projects but a request for Defence to report back to the Committee was included in only 12 of these recommendations.

(b) Feedback required, but as noted in paragraph 3.22, reports cannot be provided until the project is finished or substantially underway.

Recommendation No.1

3.23 The ANAO recommends Defence develop and document processes to report back to the Public Works Committee on those recommendations made in the Committee's reports on Defence public works projects where feedback to the Committee has been requested.

Defence response

3.24 Defence agrees with the recommendation. Appropriate action has already been completed through the issuing of an Internal Directive that amends the Infrastructure Management System to mandate the reporting of progress on Public Works Committee recommendations.

Finance response

3.25 Finance considers it to be important that where the PWC has requested Defence to provide it with feedback on implementation of its recommendations a sound process is followed to ensure that occurs. Therefore, Finance supports the recommendation.

Public Private Partnership projects

3.26 Of the 13 projects reviewed, three were, or are proposed to be, procured using a PPP financing arrangement by Defence, using the methods described in Chapter 2. The PPP projects represent \$1.924 billion, from a total of \$4.303 billion³⁶ – or 44 per cent of the total estimated cost for Defence capital works projects presented to the Committee over the past four years³⁷.

3.27 The information to be provided to the Committee on the general aspects of a project is the same for PPPs as for direct procurement projects. The statement of evidence is the same as for direct procurement, but the confidential cost report consists of a Public Sector Comparator³⁸ and an identification of the risks the private company or consortium will be allocated responsibility for as a result of the tender for PPPs. The Committee's Manual sets out the items that are to be included in the statement of evidence and cost report for PPPs.

3.28 Of the three projects, HQJOC and Single LEAP Phase 1 were referred to the Committee prior to the release of the November 2006 version of the Committee's Manual. The current Manual includes information on the requirements and workflows for PPPs, while the earlier versions of the Manual did not. Single LEAP Phase 2 was referred to the Committee after the November 2006 version of the Manual was released.

³⁶ The figures are the estimated cost amounts as reported to the Public Works Committee.

³⁷ They also represent 56 per cent of the total value of the 13 projects reviewed in detail.

³⁸ As explained in paragraph 2.6, the public sector comparator is an indication of how much the project would cost if directly procured, to allow a cost comparison between PPP and direct procurement to be made.

Adherence to the requirements of the Act

3.29 The three PPP projects³⁹ were referred to the Committee to gain Parliamentary approval⁴⁰ prior to the commencement of the works. The projects were well over the threshold amount in the Act at the time of referral. There is no evidence of non adherence to the relevant requirements in the Act for project referral to the Committee for the three PPP projects included in the ANAO's sample.

Starting the work and entry into contacts

3.30 The three PPP projects had, or will have, the contracts for construction commencement signed after the Parliamentary expediency motion. During the referral of the Single LEAP Phase 2 project the Committee was concerned that Defence may have been in breach of the Act for financial commitments entered into for project development prior to Parliamentary approval of the project. The issue of what constitutes 'work' and whether financial commitments for development breach the requirements of the Act was considered at length by Defence and Finance staff. In early 2007 Finance requested advice from the Australian Government Solicitor on the meaning of the word 'work' under the Act. The advice from the Australian Government Solicitor was that there is a reasonable argument that pre-construction costs, including design, preliminary studies, plans and detailed business case preparation, was not, in relation to the Single LEAP Phase 2 PPP project, 'work' under the Act.

Appearance before the Committee

3.31 In respect of the three PPP projects reviewed, Defence witnesses appeared before the Committee for the relevant hearings. Where further information was requested on notice at the hearings, the information was provided prior to the Committee presenting its report to Parliament, and the moving of the expediency motion. Information on who would be appearing before the Committee to represent the department in relation to these projects, contained in witness forms, was provided prior to the hearing and forwarded to the Committee Secretariat.

³⁹ Two projects are currently funded under PPP arrangements, and the third is proposed to be.

⁴⁰ Parliamentary approval is the expediency motion presented to Parliament.

Adherence to the requirements of the Manual

3.32 The Committee's Manual requires the statements of evidence for PPP projects to contain the same type of information as those prepared for direct procurement projects. There are no extra or specific items identified as required in respect of PPP projects. For all three PPP projects in the ANAO's sample statements of evidence were submitted to the Committee that provided the relevant information.

Public Sector Comparator

3.33 As noted in paragraph 2.6, it is a requirement of the Committee's Manual (November 2006) that where projects are planned to be financed using a PPP arrangement cost information against the raw Public Sector Comparator should be provided to the Committee. The Manual advises that the Public Sector Comparator should include efficient and realistic public sector procurement methods, and represent the whole of life costs (construction, operation and maintenance). For each of the three PPP projects in the ANAO's sample Defence provided a Public Sector Comparator to the Committee as part of the confidential cost report⁴¹.

Site visits

3.34 Site visits are required for PPP projects, as they are for direct procurement projects. Defence consults with the Committee Secretariat on the arrangements for the relevant visits. Site visits were arranged for each of the PPP projects reviewed. In the case of Single LEAP Phase 2, where there are multiple sites, the Committee visited as many as it could in accordance with its schedule⁴².

Changes to design

3.35 The Committee is to be advised of significant changes to projects, whether they are financed through direct procurement or a PPP. In 2005, the staffing level requirement for the HQJOC project changed from 1185 to 750 personnel. This change resulted in the number of buildings required for the project being reduced, and necessitated an extension to the request for tender process so that the consortia putting in tender documents could revise their bids. It also led to a media release being issued on 5 October 2005 noting the

⁴¹ As with the direct procurement confidential costs, the PSC did not note if the estimated costs included GST.

⁴² Single LEAP Phase 2 is designed as an extension of Single LEAP Phase 1, but with more sites.

change and the consequential change to the request for tender deadline. The Committee was not notified of this change, as is required by the Committee's Manual. In November 2005, the Chair of the Committee wrote to Defence regarding the change and requesting that a briefing be provided to advise how the proposed staffing decrease will impact on the scope and budget of the HQJOC project.

3.36 In October 2006, the Committee was briefed on the impact on the project of the staffing reduction announced on 5 October 2005. The Defence briefing noted that some of the facilities were to be reduced in size, and that one support building was no longer required.

3.37 The Single LEAP Phase 1 was altered when the number of rooms to be upgraded at the Holsworthy site was increased by 100. The increase was proposed after the Parliamentary expediency motion⁴³. Defence advised that the increase was considered to be of a lesser significance, and was to be included within the approved annualised service payment cap, which represented the upper level of payment that Defence could negotiate. The change was also only anticipated to require a one month extension to the delivery timeframe for Holsworthy. Defence did not advise the Committee of the Single LEAP Phase 1 change in room numbers, although follow up reports to the Committee detail the new room number requirement.

3.38 A consistent review process, including the identification of any significant changes to project scope, purpose, function, design, space or cost and the need to advise the Committee, would help to ensure these situations are less likely to occur in future. The delivery of projects in accordance with the approved project scope, purpose, function, design, space and cost is being examined in detail in a related audit ANAO currently has underway (see paragraphs 1.3 and 1.16). The second audit's sample includes two Defence projects.

⁴³ As noted in paragraph 1.9, once the Committee's report is tabled in Parliament, the Minister for Finance and Deregulation moves a motion in the House of Representatives that the House resolve that it is 'expedient to carry out the work'. The House's resolution is the Parliamentary approval of the project.

Follow up on recommendations

3.39 The Committee made 23 recommendations in relation to the three PPP projects in the ANAO's sample. Of those, the Committee requested that a report back from Defence be provided for 14 of the recommendations. The recommendations relate to the need for ongoing consultation with appropriate bodies, a requirement to update the Committee on final costs when a strategic partner is chosen, and to provide reports on progress and cost during the life of the project. Table 3.4 identifies which projects required Defence to report back to the Committee.

3.40 As is the case in relation to some of the Committee recommendations relating to direct procurement projects in the ANAO's sample, some of the recommendations cannot be reported on until the project is finished or substantially underway, given the nature of the recommendation. Considering the long term nature of some of the projects, and the requirement to report to the Committee at various stages, a regular review mechanism implemented by Defence would ensure enhanced adherence with the Committee's requirements.

Table 3.4

Requirement for Defence to provide feedback to the Committee's recommendations on PPP Projects in the ANAO's sample

Project	Number of recommendations	Date of Committee Report	Feedback to Committee
Bungendore: Headquarters Joint Operations Command Project	5	Aug 2004	Yes, most recently October 2006
Provision of Facilities for Project Single LEAP Phase 1	5	Oct 2006	Yes, April 2007
Provision of Facilities for Project Single LEAP Phase 2	13	Jun 2007	Yes, December 2007

Source: ANAO analysis of Defence documents

Note: A total of 23 recommendations were made, although a request for Defence to provide feedback to the Committee was made in only 14 cases.

3.41 The Committee reports for all but one of the 13 projects in the ANAO's sample included a final recommendation that the project proceed at the cost estimate provided to the Committee by Defence. The exception is Single LEAP Phase 2, where the Committee's final recommendation was that, subject to the

relevant Minister being satisfied as to the overall cost of the project, and that the project represents value for money, the works proceed. This recommendation was accepted by Defence, and the expediency motion was moved in Parliament on 20 June 2007.



Ian McPhee
Auditor-General

Canberra ACT
22 April 2008

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