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LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

GOVERNMENT SUBMISSION TO THE PUBLIC ACCOUNTS COMMITTEE CONCERNING THE AUDITOR-GENERAL'S PERFORMANCE AUDIT REPORT NO 3 OF 2011

THE NORTH WESTON POND PROJECT

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GOVERNMENT SUBMISSION TO THE PUBLIC ACCOUNTS COMMITTEE CONCERNIGN THE AUDITOR-GENERAL'S REPORT No. 3/2011: THE NORTH WESTON POND PROJECT

The Auditor-General has prepared a report providing a performance audit that reviewed the effectiveness of processes used by ACT Government agencies in planning, designing and constructing the North Weston pond project in the Molonglo Valley.

The audit focused on the effectiveness of ACT Government agencies in managing contamination and geotechnical risks associated with the project.

The location of the proposed pond presented significant legacy issues for any future land use in the area – regardless of whether that would have been for a pond, parkland, residential or community uses. The issues were not so much with the pond proposal, but rather with the nature of the land and previous activities on the site. These pre-existing contamination and geotechnical issues needed to be addressed in any case; given the prominent location of the site as the gateway to both the Molonglo Valley and Weston Creek.

The audit has raised a number of fundamental issues that go the heart of government practice and has lead to the initiation of a review of current operations

The following is the ACT Government's responses to the recommendations contained in the final audit report.

Government Response to Recommendations

Recommendation 1
For future high-risk infrastructure projects, relevant ACT Government agencies should identify a single project owner agency early in the project with a clearly defined responsibility for planning, designing and constructing the asset. The nominated project owner agency should be involved throughout the project.

Government response

Agreed.
The recent changes to the Government agencies structure, as guided by the Review of the ACT Public Sector prepared by Dr Allan Hawke AC, provides for clear responsibilities across agencies for the planning, design and construction of major civil engineering assets. These agencies include the Directorates of Environment and Sustainable Development, Economic Development, Treasury and Territory and Municipal Services. These agencies have a role to play at various stages in the implementation and management of major projects. The Directors General of the relevant Directorates will ensure a smooth transition between each of the stages of planning, design, construction and ongoing maintenance and management of projects.

The primary responsibility for the implementation of civil engineering capital works projects supporting urban development will lie with the Economic Development Directorate which will have the funding authorisation for design and construction. Input critical to the success of the projects will be provided from other key agencies.

The primary responsibility for the implementation of civil engineering capital works projects in existing urban areas – mostly road related projects - will lie with the Territory and Municipal Services Directorate. The responsibility for maintenance, operation, repairs and replacement of assets will continue to be with Territory and Municipal Services Directorate, or ACTEW Corporation/ActewAGL for water supply and sewers as is currently the case.

Recommendation 2
For projects involving multiple ACT Government agencies, the project owner should convene an inter-agency governance committee or similar arrangement to review project risks, progress and costs on a regular basis.

Government response

Agreed in part.
An inter-agency governance committee will be established to review project risks, progress and costs on a regular basis for all major and complex projects. This committee will review all projects that are categorised as 'high risk'. The work of this committee will build on the existing project governance requirements that are currently in place such as the Land Supply Working Groups and Land Supply Committee.

A key initial element of this process will be to define what projects constitute a 'high-risk'. This is proposed to be determined based on an initial project risk assessment and identified as such in project briefs in agreement with relevant agencies. What constitutes a 'high risk project' will depend on a number of factors including; the complexity of the project; the project cost and; the availability of in-house expertise. The determination of a project's risk category will be included within the project brief that is made publically available at the tendering stage. It is not considered necessary or cost-effective to establish inter-agency governance committees for low risk projects.

International standard ISO 31000 methods, including an analysis of likelihood and consequences of risks, will be used to determine which projects constitute 'high risk' as well as using project cost thresholds. Shared Services Procurement processes currently identify projects over $5 million as requiring review by the Procurement Board, thus providing an additional high-level inter-agency review of larger projects.

Project governance, including project management and risk management arrangements, will be reviewed and strengthened as a result of this audit It is noted that arrangements were in place that were consistent past practice for similar projects. It is acknowledged, however, that these arrangements were not sufficient to avoid the cost and time over-runs on the project.

Recommendation 3
For future high-risk infrastructure projects, the project owner should ensure that:

(a) a strategic operational plan for the entire project is prepared, as a key project governance document and ongoing reference source for the project oversight or governance committee; and
(b) a series of gateway reviews are incorporated within the plan. This should involve a series of critical reviews of the ongoing feasibility and appropriateness of the project at appropriate stages, which seek to test the project's underlying assumptions and cost considerations, based on new and accumulated information and knowledge.

Government response

Agreed.
The strategic operational plan will outline the objectives, risks, mitigation options and review requirements at the commencement of the project. These will be reviewed and amended as needed by the project manager and agreed to by the governance committee as part of project reviews. These reviews will be undertaken at the 'issue brief', 'preliminary sketch plan', 'final sketch plan' and 'document readiness' stages of the projects as a minimum. Following the completion of the Audit, significant progress has been achieved in the governance, scoping and project management of complex projects. One particular recent initiative is the utilisation of value management workshops which have become commonplace on major projects.

Recommendation 4
For future high-risk infrastructure projects, the project owner should seek to reduce risks through a formal project-wide risk assessment process that provides for input by all parties (ACT Government agencies, consultants and contractors) with relevant knowledge of risks.

Government response

Agreed.
Existing project management plans and risk plans, prepared for each project, will be expanded to include broader project-wide risks and progressive updating through input from all relevant parties at each stage of the implementation process. The plans will receive formal review at the concept plan, design and construction stages of projects as a minimum. The risk assessment will include those during the design, construction and operational stages of the asset life and will consider relevant economic, environmental and social risks.

Recommendation 5
For future high-risk infrastructure projects, the project owner should ensure that the roles of key stakeholders are identified and documented, particularly regarding which agency will be responsible for critically reviewing technical advice provided by a third party before accepting and incorporating it into the project.

Government response

Agreed in part.
Project governance arrangements will establish the reviewer and acceptor of technical advice early in the project planning phase. This will be described in the strategic operational plan.

The critical review of technical advice provided by a third party may require an agency acquiring additional expertise and should not obviate the professional competency and responsibility of the third party's expert advice to Government or the professional competency and responsibility of those providing the original advice to Government.

An ongoing concern for all ACT Government agencies involved in the procurement of expert advice is the Auditor General's, and indeed the Australian National Audit Office's view on the management of technical and expert advice and the ongoing need for the ACT Government to assess the quality and appropriateness of any external technical advice received. While the ACT Public Service has some technical expertise covering a range of infrastructure projects, it does not have the requisite specialist technical expertise to review all the advice received.

It is considered that the role of consultants and reliance on expert consultant advice and reports is not adequately addressed in the audit report. This is a significant issue as the ACT Government does, and should reasonably be expected to, rely on the efficacy and accuracy of the highly specialised advice consultants provide. The Government does not believe that consultants can adopt an 'all care and no responsibility' approach to their advice. Notwithstanding, Government agencies will continue to critically review the advice of engaged experts.

Recommendation 6
The Environment Protection Authority should review the Contaminated Sites Environment Protection Policy and consider amendments to the Policy that:
(a) clarify roles and responsibilities for the management of contaminated sites, including its role, the role of the Contaminated Site Auditor and other stakeholders, including the project owner; and
(b) allow for greater and more sustained involvement from the Environment Protection Authority for future high-risk infrastructure projects involving contaminated sites.

Government response

Agreed.
The Environment Protection Authority (EPA) will implement this recommendation and the suitability of the proposed amendments in the context of a review of the Environment Protection Act 1997, which commenced in late 2011.

Recommendation 7
For future high-risk infrastructure projects, the project owner should ensure that the decision-making process for acceptance of infrastructure design is properly documented, including documentation demonstrating that all known risks were recognised and either accepted or mitigated.

Government response

Agreed.
Existing processes and documentation requirements for project acceptance and project risk assessment will be critically reviewed and amended. Known risks will be acknowledged and managed.

Recommendation 8

For projects on contaminated sites, ACT Procurement Solutions should consider using alternative pricing methodologies that can provide better value for money for the excavation and removal of contaminants during the construction stage.

Government response

Agreed.

In addition to the response to Recommendation 6 regarding greater focus on the investigation and selection of cost effective remediation strategies, alternative contract pricing methodologies will be included in future construction stage tenders also. This recommendation will be expanded to cover projects involving high volumes of inert waste (that is, geotechnically unsuitable materials).

It is recognised that removal of contaminants is one of a number of remediation options. Others include 'land farming', on-site management and containment. All options would be properly assessed for compliance with applicable legislation and guidelines, giving full consideration to managing impacts on human health and the environment, and in accordance with specialist advice.

Summary

The location of the proposed pond presented significant legacy issues for any future land use in the area – regardless of whether that would have been for a pond, parkland, residential or community uses. The issues were not so much with the pond proposal, but rather with the nature of the land and previous activities on the site. These pre-existing contamination and geotechnical issues needed to be addressed in any case; given the prominent location of the site as the gateway to both the Molonglo Valley and Weston Creek.

The audit has raised a number of fundamental issues that go the heart of government practice and has lead to the initiation of a review of current operations