

2010

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

GOVERNMENT RESPONSE

**TO THE
LEGISLATIVE ASSEMBLY
STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY
REPORT ON THE
INQUIRY INTO DELAYS IN THE COMMENCEMENT OF
OPERATIONS AT THE ALEXANDER MACONOCHIE CENTRE**

TABLING STATEMENT

**Presented by
Simon Corbell MLA
Attorney General**

9 / 2 / 2010

Mr Speaker,

When the Legislative Assembly Standing Committee on Justice and Community Safety announced its inquiry into prison delays in January 2009, it was at a time when there was considerable media and public scrutiny of the new prison and why it was still not operational.

The Government welcomed the inquiry at that time. We saw it as an opportunity to clear the air and we gave the Committee our full cooperation.

The construction of a prison in the ACT was a brave decision for this Government and we did not go in half-heartedly. We looked to build a facility which would cater for the ACT's needs into the future and which would set a high and human rights compliant standard for prison and prisoner management within Australia and beyond.

This government determined that the ACT prison would be built and operated in accordance with Human Rights principles and best correctional practice. It would systematically pursue the rehabilitation of our sentenced prisoners and substantial reductions in re-offending. It would do this through comprehensive therapeutic, criminogenic and educational programs and sound, humane prisoner management.

I was proud to have been a party to such a cutting edge policy and remain proud of the implementation of that policy in the form of the Alexander Maconochie Centre and associated services.

It was with great frustration to me and, I am sure, then Minister Hargreaves when he took over responsibility for the Corrections in November 2008 until quite recently, that the prison was not ready to commence operations as expected and the continuing frustration as those delays dragged on through to the end of the year and then into 2009. It was frustrating because it was beyond the control of the Government and ACT Corrections.

The inquiry, when called, was welcomed by this government. It was an opportunity for the complexities of the project to be examined without the evaluation being

reduced to electronic media sound-grabs or misleading newspaper headlines. The Government could put its position and concerns about the performance of the builder to the Committee. It could do this in detail and trust that the weight of evidence would be properly assessed and in so doing, establish clearly that the responsibility and control for the delays was not that of the Government.

Notwithstanding the terms of reference of the Committee which included overtly political elements such as an examination of the official opening ceremony in September 2008 which had nothing to do with the delays, I had faith that a committee process would deliver some positive outcomes.

I was wrong.

Seven long months after the final hearing, and almost eight months after the prison had become operational, the Committee brought down its report.

One would have thought that with all that time, the report would have been of the finest quality. That the Committee's recommendations would be based on findings which focused on the issue at hand – the reason for construction delays – and that those recommendations would be sharp and honed by the many re-workings that must have occurred to have warranted such a delay in the provision of the report.

One would have thought that the recommendations would have provided invaluable insight and potential improvements to the operation of government business.

Sadly, this was not the case.

Instead, it was a politically charged piece of rhetoric featuring unsound judgements, naïve observations and a series of ineffectual recommendations.

I was shocked at the time and let my feelings be known and I am no less pleased now.

The report revealed that the Committee had learned very little about the operation of building contracts or the building industry more generally. The failure to distinguish

between on the one hand, legitimate extensions or variations in contract completion date provided for under the contract, and, on the other hand, the protracted delays beyond that agreed date, lumping all under the term 'delays', highlights this lack of understanding.

The naivety of such findings as Finding 2, which says that when the Committee visited the site on 4 February 2009 that the AMC was not ready for handover would be amusing if it did not reflect the ignorance of the Committee's considerations which clearly lacked an understanding of the fundamentals required in examining any construction project.

No, the AMC was not ready on the 4 February when the Committee visited the site. It would not be ready for another six weeks. That is why the Government was not prepared to accept the site until 20 March 2010 when it was ready.

The Committee's findings in regard to human rights compliance also reflect a naivety and terrible short coming in the Committee's deliberations.

In a jurisdiction where human rights compliance is to the fore, such examination was certainly a legitimate course of action. The Government considers it totally appropriate for the Committee to examine human rights issues in the remand centres which related to the delay in the delivery of the AMC.

However, it is one thing to examine issues and quite another to make findings. Findings in regard to matters of law. Findings in regard to matters of human rights law. With what qualifications, utilising what evidence-based analysis and what principles of proportionality did the committee come to a conclusion that the delays had further contributed to the ACT's remand facilities not being human rights compliant?

Over and above all, I was offended with the Committee's first finding that strongly implies that the Government and its agencies had not properly complied with the inquiry. I know that Government and the staff of its agencies bent over backwards to

make themselves available for hearings and provide thousands of documents to the Committee.

With these concerns, it should not have been a surprise to the Government and me that the Committee would get wrong the very issue at the heart of this inquiry – the issue for which the inquiry was called – the delay in the commencement of operation of the AMC and the impact of that delay.

Despite all the information provided, the Committee found that the delays in the commencement of operations were not solely due to the security system but to a range of other factors as well.

This is not the case. This finding is wrong. As the Government has repeatedly said and continues to say, the delay in the commencement of operations at the AMC were due to a failure by the builder, Bovis Lend Lease, and its security sub-contractor, Chubb, to complete the security system.

And this is not just the opinion of the Government. I am now advised that in a decision handed-down in July 2009, an independent expert contracted under the dispute resolution provisions of the contract, found in favour of the Territory in regard to the issue of delays.

Bovis Lend Lease had disputed the imposition of liquidated damages due to delays in the completion of the security system, claiming that other problems that had been outside its control had contributed to the delay in finalisation of the project and sought an extension of the agreed contract completion date on this basis

The independent expert found that this was not the case – that the delays in finalisation of the project were due to the delay in the completion of the security system.

I cannot leave unsaid what the expert arbitrator determined in his decision. He said that ‘...the security services installation, commission and testing activities were

causing a delay in reaching Completion and that this delay was within the control of BLL [Bovis Lend Lease]’.

Bovis Lend Lease has not challenged the expert’s decision.

While acknowledging that the Committee was not privy to this decision because its active inquiry work preceded this decision by some months, I draw to the attention of the Assembly that the findings of the expert and the findings of the Committee are at odds though the Committee had access to the same sources of information.

What also amazes me is that in not one of the Committee’s findings is the builder Bovis Lend Lease or its security sub-contractor Chubb mentioned. Two organisations at the heart of this project and at the heart of the problems that developed and yet, based upon the wording of the Committee’s findings, of no import at all.

I acknowledge that those companies are not subject to the recommendations of the Committee, but how and why were they so completely ignored in the findings?

The independent expert has found that the Government was not responsible for delays in opening the AMC post September 2008, instead ruling that contractor Bovis Lend Lease and sub-contractor Chubb did not satisfy their contractual obligations for installing the AMC’s internal security system.

This is indicated in the Government response that I table today. The claim made by Bovis Lend Lease that other factors were the cause for the delays is incorrect. Other matters operated concurrently, but the finding by the Committee that there were delays other than the delay in the security system that affected the commencement of operations of the AMC is unsubstantiated. The contractor’s failure to properly install the security system is the reason for delays past September 2008.

As a result of this finding by the independent arbiter, the Territory will pursue liquidated damages, which are still being negotiated and subject to other processes.

The Committee, chaired by Liberal MLA Vicki Dunne, failed to objectively consider the circumstances surrounding the delay in the prison project and its report is inconsistent with the findings of the independent expert.

The Government was not responsible for delays from September 2008 onward.

This decision by the independent expert confirms that the Government position was correct throughout, and that the Committee inquiry has fundamentally proven to be a complete waste of time.

The Committee made 25 findings. The Government is challenging 19 of these.

The Committee made findings in the absence of supporting evidence. It made findings that appear to be politically motivated and that were incorrectly critical of the Government.

The Committee made 11 recommendations. And when it came to recommending improvements in government operation, the Committee had little to offer.

The recommendations relate primarily to contract management improvements and to briefing the Assembly in regard to outstanding contractual matters.

These 11 recommendations are far from inspiring and far from contentious. They offer little in the way of improvement; though claim nonetheless to target improvement. The Government has agreed to or noted nine of these and rejected just two of the 11 recommendations. The two rejected recommendations, number 5 and 7, relate to the briefing of this Assembly in regard to unresolved contract matters. We have rejected these because to comply with them, at this time, will potentially undermine the Territory's capacity to finally resolve this contract.

However, I might add, that when these matters are resolved, the Government stands ready to advise members of this place on the outcome.

The Government has prepared this response to the Committee report. The response addresses every finding and every recommendation. It documents the Government's considerable concerns in regard to the findings of the Committee. It addresses the recommendations and notes the Government's responses.

Mr Speaker, I table the Government Response to the report of the inquiry.

2010

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE
ON JUSTICE AND COMMUNITY SAFETY
OF THE SEVENTH LEGISLATIVE ASSEMBLY
REPORT NO 3

REPORT ON THE INQUIRY INTO THE DELAY IN THE COMMENCEMENT OF
OPERATIONS AT THE ALEXANDER MACONOCHIE CENTRE
(November 2009)

GOVERNMENT RESPONSE
February 2010

Presented by
Mr Simon Corbell MLA
Attorney General

9 / 2 / 2010

EXECUTIVE SUMMARY

The Chair of the Standing Committee on Justice and Community Safety announced on 22 January 2009 that the Committee would hold an inquiry into delays in the commencement of operations at the Alexander Maconochie Centre (AMC), the ACT's new prison.

At that time, there was considerable media and public scrutiny of the delays in completion of the prison and the Government agencies responsible for management of the construction were engaged in intense negotiations with the builder, Bovis Lend Lease, to finalise construction.

The Government notes that both public and in-camera hearings were held between 18 February and 8 April 2009. A number of submissions were also received.

On 20 March 2009 the Territory accepted handover of the AMC site from the builder. On 30 March 2009 the first prisoners were admitted into the prison. The AMC has been operational since that time.

The Committee handed down its report on 19 November 2009.

The Government rejects many of the findings of the Committee and is at a loss to understand how the Committee members could possibly have come to some of their conclusions. Fundamentally, the Committee's findings (18 and 22) that delays in construction were attributable to more than just the problems with the security system are wrong. The delays in the operation of the prison were the result of a failure by Bovis Lend Lease (and its security system sub-contractor, Chubb), to deliver the completed prison within the contracted timeframe. This fact is confirmed by the decision of an independent expert who found that Bovis Lend Lease's claim that other factors caused the delays was unfounded. As a consequence, the Government is seeking the maximum amount of liquidated damages provided for under the contract.

The Committee ignored the fact that the responsible Government agencies and their management and design contractors worked tirelessly to facilitate installation and reduce the impact of delays.

In regard to other findings, the Committee has, without substantial grounds, called into question the extent of the Government's cooperation with the Committee (Finding 1), despite the Government and its agencies providing full cooperation. Some findings, such as Findings 2 and 20, seem to lack any significance.

The Government is also concerned that the Committee made findings in regard to the application of the *Human Rights Act* (Findings 6, 7 and 10) without proper evidence-based analysis or appropriate regard to accepted principles of proportionality.

In regard to the majority of the Committee's recommendations, the Government has accepted these or noted that they are already Government practice. Those recommendations rejected by the Government, specifically recommendations 5 and 7, have been rejected on the basis that to implement them could jeopardise contract resolution and expose the Territory to potential financial loss. The acceptance of recommendation 8 also reflects this concern.

A detailed response to each finding and recommendation follows.

FINDINGS

FINDING 1

1.11 Despite specific requests made in writing and repeated in hearings, copies of all relevant Ministerial Briefings were not provided to the Committee.

- A. The Government provided substantial documentation to the Committee, including copies of many Ministerial briefings. The Committee has not outlined what briefs it considers it did not receive and the Government does not understand the basis for this finding.

FINDING 2

1.15 On 4 February 2009 when the Committee undertook a site visit, the AMC was clearly not ready for handover and it was apparent to the Committee Members that considerable work still needed to be done.

- A. The Government agrees that the AMC was not ready on the day the Committee visited (4 February 2009) which is why it did not accept handover until 20 March 2009, more than six weeks later. However, the work still being done was noted in the Committee's report to be overwhelmingly related to the security system. In fact, the Committee noted that a major failure of the security system occurred on the day of the visit. Other work the Committee observed and noted was in regard to installation of the Radio Frequency Identification (RFID) system under a separate contract, discussed in the answer to Finding 16 below, and routine grounds security screening with metal detectors to prevent construction rubbish being left behind that could be used as weapons by prisoners. Neither of these were material as new or additional sources of delay.

FINDING 3

2.18 The Committee finds that, unlike most other parts of the project, the security system was not fully designed before it went out to tender. In the AMC project, the security system contract was unique in that it was a contract both to design and build.

- A. The Government rejects the implied criticism of this finding, and it notes that such criticism is not reflected in the Committee's discussion of this issue. It should also be noted that a design and build approach is not a unique concept in regard to construction.

FINDING 4

2.52 The Strategic Procurement Plan and the relationship between Australian Capital Territory Corrective Services, Procurement Solutions and Sinclair Knight Merz created a confusing model for management of the contract. The allocation of responsibilities lacked clarity and the lines of communication and control were unclear.

- A. The Territory had in place management structures that described the different relationships and responsibilities for the AMC project. The model the Territory utilised is commonplace in industry and is widely used in both the ACT and the Australian Public Sectors; furthermore, the model was agreed to by the Project Steering Committee and endorsed by the Government Procurement Board.

FINDING 5

- 3.17 The cessation of transfers of prisoners to NSW was never satisfactorily explained to the Committee.

- A. The Government rejects this finding. The Committee was advised of the situation. While the Committee seems to have developed an understanding that the advice provided by ACT Corrective Services and the NSW Department of Corrective Services are at odds with each other, this is not the case. The NSW Department of Corrective Services advised the Committee that NSW would continue to accept ACT prisoners subject to availability of accommodation in NSW. During the period in question, as explained to the Committee by the Executive Director, ACT Corrective Services, suitable accommodation was not available because of overcrowding in NSW prisons.

FINDING 6

- 3.18 The cessation of transfers of prisoners to NSW in December 2008 added to the pressure on ACT remand facilities, and contributed further to their failure to be human rights compliant.

- A. The Government agrees that the inability of NSW to take ACT sentenced prisoners at that time did add considerable pressure to the accommodation problems in ACT remand facilities. However, the Committee's report provides no factual basis for asserting that there were any additional issues to those existing prior to December 2008, or indeed September 2008.

FINDING 7

- 3.22 While the ACT's remand facilities have always given rise to serious human rights concerns, these concerns were exacerbated during the period between the official opening of the AMC (September 2008) and the commencement of the transfer of remandees to the AMC on 30 March 2009. ACT remand facilities were not human rights compliant during this period.

- A. The Government has repeatedly acknowledged the problems presented by the ACT's ageing and inadequate remand facilities which was one of the reasons it was determined to build the new prison. The Government acknowledges that these problems were exacerbated by the inability of NSW to accept ACT sentenced prisoners at the end of 2008 but this problem had not arisen in September 2008. However, the Committee's report provides no factual basis for asserting that there were any additional issues to those existing prior to September 2008.

FINDING 8

3.29 Between September 2008 and March 2009 the remand facilities, and particularly the Belconnen Remand Centre, were overcrowded and grossly inadequate. This may have contributed to a number of incidents at remand facilities.

- A. The Government has repeatedly acknowledged the problems presented by the ACT's ageing and inadequate remand facilities which was one of the reasons it was determined to build the new prison. As the Committee was advised, however, there is no empirical evidence that there was a rise in serious incidents at the remand facilities during this time.

FINDING 9

3.30 The ACT Human Rights Commissioner and the ACT Ombudsman were vigilant in raising human rights concerns and encouraging the Government to maintain standards even in adverse conditions.

- A. The Government notes the finding.

FINDING 10

3.31 During the period from September 2008 to March 2009 human rights standards, such as in keeping sentenced and remanded prisoners separated, were not met.

- A. The Government acknowledges that the inability of NSW to accept ACT sentenced prisoners at the end of 2008 increased pressure on the ability to separate sentenced and remand prisoners. The Government considers that these circumstances were exceptional, and notes that section 19 of the *Human Rights Act 2004* provides for exceptional circumstances.

FINDING 11

4.17 At the time of the official opening, the Minister for Corrective Services was not well briefed on delays in completing the AMC and the impact that this would have on the transfer of prisoners.

- A. The Government disagrees with this finding. The Minister was briefed regularly on the status of these matters in written and verbal briefings.

FINDING 12

4.18 The failure to brief the Minister in a timely way led to the inappropriate raising of expectations about the commencement of the operation of the AMC.

- A. The Government disagrees with this finding. The Minister was briefed regularly on the status of these matters in written and verbal briefings.

FINDING 13

4.19 The Minister and ACT Corrective Services decided on and proceeded with an official opening on 11 September 2008 despite at least eight changes over the previous six months to the completion date of the Alexander Maconochie Centre.

- A. As the Committee was advised during the inquiry, testing and certification of most components of the facility had been completed by that time, and as Bovis Lend Lease was assuring the Territory completion was imminent, the Government considers that the decision was a reasonable one.

FINDING 14

4.20 At the time of the opening, as the Minister was not appropriately briefed on the delays, the community was not adequately informed about the delays to the commencement of operation of the Alexander Maconochie Centre.

- A. The Government disagrees with this finding. The Minister was briefed regularly on the status of these matters in written and verbal briefings.

FINDING 15

5.6 The Radio Frequency Identification System was not completely operational at the time that prisoner and remandees were transferred into the Alexander Maconochie Centre.

- A. The Radio Frequency Identification System (RFID) could not be implemented until after the AMC was handed over by Bovis Lend Lease to Corrective Services. This was due to site access restrictions imposed on the client by Bovis Lend Lease which had control of the site.

RFID is an electronic tracking system that enhances the operations and management of the AMC. It is not, however, critical to the secure operation of the prison. Other processes, such as manual musters, have been utilised in its stead consistent with the operation of other non-RFID prison facilities. It was not envisaged that the RFID system would be operational until well after the AMC was occupied.

FINDING 16

5.7 The lack of the Radio Frequency Identification System at the time of the transfer of prisoners and remandees meant that the Alexander Maconochie Centre security system, as envisaged, was not fully functional.

- A. RFID is an electronic tracking system that enhances the operations and management of the AMC. It is not, however, critical to the secure operation of the prison. Other processes, such as manual musters, have been utilised in its stead consistent with the operation of other non-RFID prison facilities. It was not envisaged that the RFID system would be operational until well after the AMC was occupied.

FINDING 17

5.26 At the time of the commencement of operation of the AMC there was no uninterrupted power supply for the building management system.

- A. An uninterrupted power supply or UPS system was installed at the AMC as part of the build. The system proved to be inadequate and was by-passed. It has now been replaced. The reasons why the original UPS system was inadequate have yet to be determined but the Government expects the responsibility for this will be resolved prior to finalisation of all contractual matters. The UPS system upgrade was completed on 27 November 2009 and is performing to specifications.

FINDING 18

5.34 Problems with the security system were a significant but not the sole contributor to delays in the commencement of the operation of the AMC.

- A. The Government does not accept this finding. Based on the Government's reading of the Committee's report, it appears the Committee has decided that delays were occurring prior to September 2008. The Government considers that the changes in completion date prior to that period were legitimate extensions of time provided for under the contract. The delays that occurred from September 2008 in the delivery of the Alexander Maconochie Centre is the real issue and these were a result of the failure by Bovis Lend Lease and its sub-contractor, Chubb, to complete the security system. This fact is confirmed by the decision of an independent expert. The expert, appointed under the dispute resolution provisions of the contract, made a decision in July 2009 that Bovis Lend Lease's claim that other factors contributed to the delays was unfounded. Bovis Lend Lease did not commence litigation in respect of this decision and under the contract provisions, is no longer able to do so.

Bovis Lend Lease undertook work replacing exhaust fans after the specified contract completion date and claimed that this contributed to delays. This claim was rejected by an independent expert as part of the expert determination process.

FINDING 19

5.43 Only one Factory Acceptance Test (FAT) was undertaken, in February 2008, on the security system despite some concerns that more work was needed. The FAT was not repeated because of concern about slipping deadlines.

- A. The Government disagrees with the finding. There were two FATs. The FAT is used to demonstrate general system functionality, prior to installation of the product.

FINDING 20

5.53 At the time of the commencement of operation of the AMC Defect 2.6 (involving the hierarchy of the security system and how the master control and subordinate control points relate to each other) was unresolved.

- A. Agreed. The Territory chose to resolve this defect after the commencement of operations as it did not prevent safe and secure operation of the prison.

FINDING 21

5.61 The development of the security system for AMC was adversely affected by other delays such as delays in fitting of locks, general delays in other systems and damage to work already done.

- A. The Government does not accept this finding. The delays in the development of the security system were solely the responsibility of Bovis Lend Lease and its security system sub-contractor, Chubb.

FINDING 22

5.65 While there were significant delays in installing the AMC security system not all the delays to the commencement of operations of the AMC were due to the security system as the Attorney General has contended.

- A. The Government rejects this finding. While the Government acknowledges that there were changes in completion date prior to September 2008, these were legitimate extensions of time provided for under the contract. The delays in the commencement of operations after this time were a result of the failure by Bovis Lend Lease and its sub-contractor, Chubb, to complete the security system. This fact is confirmed by the decision of an independent expert. The expert made this decision on the basis of his finding that there were delays in reaching completion up to 5 January 2009 relating to the security services installation, commissioning and testing activities. The expert found that this delay "was within the control of BLL."

FINDING 23

6.22 The Committee finds that communications failures between the various parties – client, contractors and sub-contractors - contributed to delays in the finalisation of the AMC's security system.

- A. The Government disagrees with this finding. Channels of communication between the Territory, SKM, (the principal's representative) and Bovis Lend Lease (the Contractor) were open and effective. However there were occasions when the parties disagreed in terms of contractual obligations, actions and costs. As such the dispute resolution mechanisms within the contract were utilised (and continue to be so).

FINDING 24

- 6.25** The Committee finds that there was insufficient time scheduled between the completion of the physical structures of the AMC and the overall completion date to allow the security contractors clear access to the building to complete their work.
- A.** The Government disagrees with this finding. The Territory and Bovis Lend Lease agreed to a Program of Works and associated timelines. Bovis Lend Lease's performance, however, did not match these agreed timeframes. It was the responsibility of Bovis Lend Lease to ensure that allowances were made in its program, and specifically in regard to completion of any physical structures and the security sub-contractor's access to the facility.

FINDING 25

- 6.37** At the time of reporting the total cost to the ACT of delays in construction of the AMC is \$3.516 million.
- A.** Noted.

RECOMMENDATIONS

RECOMMENDATION 1

- 4.11 That client agencies monitor the cumulative effect of delays in capital works projects and ensure that responsible Ministers are regularly and adequately briefed on the overall impact of those delays on the progress of capital works projects.

A. Agreed. This is current practice.

RECOMMENDATION 2

- 4.12 That the Department of Justice and Community Safety review its procedures for ministerial briefing and ensure that ministers receive appropriate and timely briefings.

A. Agreed. Apart from the committee's recommendation, the Department has undertaken an evaluation of its procedures for ministerial briefing to ensure that Ministers receive appropriate and timely briefings. This is ongoing and is aimed at clarifying protocols related to when and what ministerial briefings must be provided, and processes for ensuring that high-quality briefings are supplied in a timely manner. Changes to procedures, including implementation of an upgraded records management system, are underway to ensure that documents may be tracked through their entire lifecycle as well as to provide a better approach to document version control.

RECOMMENDATION 3

- 5.8 The Committee recommends that the Minister for Corrective Services report to the Assembly on the installation of the RFID system.

A. Agreed. The RFID installation commenced within one week of Corrective Services taking possession of the site. The system is currently functioning and is being commissioned.

RECOMMENDATION 4

- 5.27 That the Minister for Corrective Services report to the Assembly on progress with the installation of an uninterrupted power supply for the AMC's building management system.

A. Agreed. The Minister's report is as follows: The Uninterrupted Power Supply (UPS) installation is complete as of 24 November 2009. The UPS was upgraded from 40KVA to 80KVA and powers all services deemed critical to AMC operations including all security systems.

RECOMMENDATION 5

5.54 That the Minister for Corrective Services report regularly to the Assembly on progress to rectify Defect 2.6 (involving the hierarchy of the security system and how the master control and subordinate control points relate to each other) which, at the time of commencement of operations, remained unresolved and that the Minister also advise the Assembly when the defect has been rectified.

- A. Not agreed. The final resolution of contractual matters, including the system hierarchy, could be jeopardised by such a briefing. However, the Government agrees to provide briefing once it has achieved final resolution of contractual matters.

RECOMMENDATION 6

6.26 The Committee recommends that the ACT Government in negotiating contracts for future major projects make reasonable allowances for probable delays and adopt realistic construction schedules.

- A. Noted. Procurement Solutions, in conjunction with client agencies, makes reasonable allowances for probable delays in construction schedules. For major projects such allowances may prove to be insufficient should unforeseen events occur.

RECOMMENDATION 7

6.38 That the Minister for Corrections report regularly to the Legislative Assembly about progress with the negotiations around liquidated damages relating to the AMC contracts.

- A. Not agreed. Final resolution of contractual matters, including the system hierarchy, could be jeopardised by such a briefing. However, the Government agrees to provide briefing once it has achieved final resolution of contractual matters.

RECOMMENDATION 8

6.39 That the Minister for Corrections, upon completion of the negotiations around liquidated damages, report the quantum of liquidated damages received by the ACT to the Legislative Assembly of the ACT within three sitting days.

- A. Agreed. The Government agrees to provide the Legislative Assembly with a briefing on liquidated damages once it has achieved final resolution of contractual matters. To do so earlier could jeopardise the finalisation of those matters.

RECOMMENDATION 9

- 7.8 The Committee recommends that for future large capital projects, the ACT Government seek to set up management structures that facilitate clear lines of communications and responsibility.

A. Agreed. This is current practice.

RECOMMENDATION 10

- 7.12 The Committee recommends that the Standing Committee on Public Accounts, as part of its inquiry into ACT Government Procurement, review the contract management issues raised by the AMC project.

A. Noted.

RECOMMENDATION 11

- 7.13 The Committee further recommends that the Standing Committee on Public Accounts, as part of its inquiry into ACT Government Procurement, consider whether ACT Procurement Solutions should develop an in house project management capability.

A. Noted. Procurement Solutions' role is currently that of purchaser on behalf of the Territory. Procurement Solutions currently has significant expertise in managing the obligations of the Territory under a range of contract types, particularly in civil engineering, landscape architecture and general infrastructure work. However for highly specialised and one-off projects such as the AMC it is not efficient for Procurement Solutions to maintain in-house content expertise.