



THE PARLIAMENT OF  
THE COMMONWEALTH OF AUSTRALIA

# Parliamentary Standing Committee on Public Works

## Procedure Manual

Edition 9.2 | June 2018 | Canberra



PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

# **PWC Procedure Manual**

Public Works Committee Manual

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# Preface

All major capital works projects delivered by the Commonwealth require Parliamentary approval. The focal point of Parliamentary approval is the Parliamentary Standing Committee on Public Works (the Committee).

The Committee is established under the *Public Works Committee Act 1969* (the Act) and is one of the oldest committees of the Australian Parliament. Its membership includes six Members of the House of Representatives and three Senators.

The Committee processes allow the Parliament and the community a measure of confidence that public monies are being spent on infrastructure that meets the needs of the community.

Under the Act, the Committee is required to consider the need, scope, cost, purpose and value-for money of proposed works and report to the Parliament whether or not it is advisable that the works proceed.

This manual is a guide to the procedures of the Committee. It outlines the functions and responsibilities of the Committee and the processes that need to be undertaken to refer works. It also outlines the basic expectations of the Committee with regard to the content of submissions.

The manual is endorsed by the Committee and should be read as an official Parliamentary document in conjunction with the Act. Procedures outlined are mandatory, as are requirements for the content of submissions. Entities are advised to familiarise themselves with the contents of this manual at an early stage and well prior to referral as some submission requirements need to be considered when developing project plans.

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# Contact Details

## Committee

All correspondence to the Committee should be addressed to the Committee Chair and sent to the secretariat. Contact details are:

Committee Chair

Parliamentary Standing Committee on Public Works

PO Box 6021

Parliament House

Canberra ACT 2600

Email: [pwc@aph.gov.au](mailto:pwc@aph.gov.au)

Details of the membership of the Committee are kept current at:

[www.aph.gov.au/pwc](http://www.aph.gov.au/pwc)

## Committee secretariat

The Committee is supported by a secretariat, staffed by the Department of the House of Representatives. The secretariat is responsible for all liaison and

coordination of Committee activities. The secretariat is the first point of contact for all inquiries related to the Committee. Contact details are:

The Secretary

Parliamentary Standing Committee on Public Works

PO Box 6021

Parliament House

Canberra ACT 2600

Tel: 02) 6277 4636

Email: [pwc@aph.gov.au](mailto:pwc@aph.gov.au)

## **Department of Finance**

The Department of Finance (Finance) is responsible for administering the Act on behalf of the Minister for Finance. Finance is responsible for referring works, preparing expediency motions and exemptions. Questions regarding these processes should be referred to Finance. Contact details are:

Property Legislation and Advice Branch

Department of Finance

One Canberra Avenue

Forrest ACT 2603

Tel: 02) 6215 3686

Email: [publicworks@finance.gov.au](mailto:publicworks@finance.gov.au)

# The Public Works Committee

## The purpose of the Procedure Manual

- 1.1 This manual provides guidance for Australian Government entities<sup>1</sup> involved in delivering public works. It presents information to help entities understand:
- their obligations to the Parliamentary Standing Committee on Public Works (the Committee);
  - the information that must be provided to the Committee; and
  - the Committee inquiry process.

## How to use the Manual

- 1.2 This Manual must be read in conjunction with the *Public Works Committee Act 1969* (the Act) and *Public Works Committee Regulations 1969*.<sup>2</sup> Entities are responsible for determining whether the Act applies to a particular project, and if so for ensuring that they comply with their obligations. If in doubt, entities should seek guidance from Department of Finance (Finance) in the

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<sup>1</sup> The term 'entity' is used to describe all Commonwealth Government bodies including Corporate Commonwealth Entities, Non-corporate Commonwealth Entities and Commonwealth Companies under the *Public Governance, Performance and Accountability Act 2013*. The *Public Works Committee Act 1969* (the Act) applies to all Commonwealth entities unless they are specifically excluded under the Act or its regulations.

<sup>2</sup> Australian Government, Federal Register of Legislation:  
<https://www.legislation.gov.au/Details/C2012C00761>.

first instance. In some cases where there are complex arrangements entities may need to seek legal advice to determine whether the Act applies to a specific project.

- 1.3 This chapter provides a general description of the Committee, its responsibilities and processes. It also includes information on the definition of public works.
- 1.4 Chapter 2 details requirements for the content of submissions to be made to the Committee describing projects and costings.
- 1.5 Chapter 3 outlines the basic inquiry process followed by the Committee in its consideration of public works.
- 1.6 Appendix A includes a checklist and flow charts for Committee processes.
- 1.7 Appendix B is a glossary of relevant terms.

## Other resources

- 1.8 There are numerous best practice manuals for construction projects specific to delivery by the public sector. In addition, in 2008 the Australian National Audit Office (ANAO) released *Report 20: Approval of Funding for Public Works* which addresses some aspects of the planning and delivery of public works and compliance with the Committee's Act and procedures.<sup>3</sup>
- 1.9 Entities developing public works projects of any size are strongly encouraged to draw on best practice manuals relevant to the project and to incorporate the findings of relevant ANAO audits prior to developing submissions for the Committee.
- 1.10 The Commonwealth Property Management Framework (Property Framework) establishes the broad policy environment within which Non-corporate Commonwealth Entities (entities) subject to the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) must govern and

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<sup>3</sup> Australian National Audit Office, *Approval of Funding for Public Works, Performance Audit Report No 20 2008-09*.

undertake their own property management activities in a transparent and informed manner.

1.11 Finance has produced guidance material supporting the Property Framework which facilitates informed decision-making processes and establishes the foundation for the efficient, effective, economical and ethical use of Commonwealth property resources. The published suite of documents form part of the Resource Management Guides (RMG) series issued by Finance and are available at <https://www.finance.gov.au/resource-management/index/#property> and include:

- RMG 500 - Overview of the Commonwealth Property Management Framework;
- RMG 501 - Property Management Planning Guidance;
- RMG 502 - Guidance for the Two-Stage Capital Works Approval Process;
- RMG 503 - Whole-of-Life Costing for Australian Government Property Management;
- RMG 504 - Commonwealth Property Management Framework Lease Endorsement Process; and
- RMG 505 - Funding Arrangements of Commonwealth Property.

1.12 Some public works projects (e.g. high-risk New Policy Proposals with a total estimated cost of \$30 million or more<sup>4</sup>) may be subject to Finance's Gateway Review Process. More information on the Gateway Review Process and eligibility can be found on Finance's website at <http://finance.gov.au/assurance-reviews/review-process/and>:

- RMG-106 - Guidance on the Assurance Reviews Process.

## Overview of the Public Works Committee

1.13 The Committee was established in 1913 and is one of the oldest investigative committees of the Parliament. The Committee calls to account the planning

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<sup>4</sup> Excludes Defence Capability Plan projects assessed by Cabinet under the Kinnaird two-pass approval process.

decisions and capital expenditure of Executive Government through Commonwealth entities.<sup>5</sup>

- 1.14 The Committee is constituted in accordance with its establishing Act and operates under the provisions of the Act, as well as '*Standing Orders and other orders of the Senate*'<sup>6</sup>.
- 1.15 The Act specifies that all public works proposed to be undertaken by, or on behalf of the Commonwealth, estimated to cost in excess of a threshold amount must not commence until:
- the work has been referred to the Committee; and
  - the Committee has reported to the Parliament; and
  - House of Representatives approval has been obtained.
- 1.16 The current threshold amount is \$15 million as set by Section 18(9)(a) of the Act. This amount is exclusive of GST, unless GST is not recoverable.
- 1.17 Entities should also understand that the Committee needs to be notified of all public works with an estimated cost of between \$2 million and \$15 million, exclusive of GST, unless GST is not recoverable. Public works in this category are referred to as medium works. Under certain circumstances the Committee may inquire into medium works (more information on medium works notifications can be found below).

## Committee membership

- 1.18 The Committee is a joint committee, meaning that its membership comprises both Members of the House of Representatives and Senators. The Committee has six members of the House of Representatives and three

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<sup>5</sup> Flowcharts outlining the Department of Finance's (Finance) Commonwealth Property Management Framework, Two-Stage Capital Works Approval Process and the relationship with the Parliamentary Standing Committee on Public Works/parliamentary approval processes can be found in Resource Management Guide (RMG) 500 and 502. See <https://www.finance.gov.au/resource-management/index/#property>.

<sup>6</sup> All references to legislation in this manual are to the Public Works Committee Act 1969 (the Act) unless otherwise specified. Likewise, all references to the Regulations refer to the *Public Works Committee Regulations 1969*.

Senators. Membership details are available on the Parliament of Australia website at: [www.aph.gov.au/pwc](http://www.aph.gov.au/pwc).

- 1.19 The Act sets out the procedures for appointing members and for the selection of the Committee Chair and Deputy Chair.<sup>7</sup> By convention, the Chair is a Government member of the Committee and the Deputy Chair is a non-Government member of the Committee.

## Committee responsibilities and processes

- 1.20 The Committee is required to consider and report on public works referred to it under the Act. In considering works, the Committee must have regard for:

- 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;
- if revenue-producing, the amount of revenue the work will produce if that is its purpose; and
- the current and prospective public value of the work.<sup>8</sup>

- 1.21 The above is considered to be the Committee's 'terms of reference' and is addressed in more detail in Chapter 2.

- 1.22 Once a public work is referred, the Committee will conduct an inquiry into the proposal. The proponent entity must provide two submissions; a public submission describing the proposal which forms the basis for public comment, and a confidential submission containing detailed costings (see Chapter 2 for more information on the content of submissions). In order to satisfy itself that the work meets the 'terms of reference' prescribed by the Act, the Committee will:

- seek public comment on the proposal;<sup>9</sup>

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<sup>7</sup> The Act, Section 7 and Section 9.

<sup>8</sup> The Act, Section 17(3).

- hold a public hearing with the proponent entity and any other relevant bodies (individuals and/or organisations who have made comment on the proposal);
- hold an in-camera hearing with the proponent entity on the project costs; and
- may undertake a site inspection.<sup>10</sup>

1.23 Following these activities, the Committee makes its report to both Houses of Parliament on whether it is expedient (appropriate) that the proposed work proceed.

1.24 The Act gives the Committee wide powers to recommend any alterations to the proposed work that it sees fit. This means that the Committee can inquire into any matter it sees relevant in order to make such recommendations.

## **Parliamentary approval**

1.25 Once the Committee has reported to both houses of the Parliament, the House of Representatives must resolve that 'it is expedient to carry out the works'. This is known as an 'expediency motion'. The expediency motion must have been passed by the House of Representatives before a work can commence.<sup>11</sup>

1.26 While the Committee can make any recommendations it sees fit for implementation by the entity, the final recommendation of any report will be:

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<sup>9</sup> In some instances, for example where there are national security considerations, it may not be appropriate for an inquiry to be conducted in public. In these circumstances the Committee will receive in-camera evidence as allowed by Section 18(A) of the Act.

<sup>10</sup> The Committee does not undertake site inspections for overseas works, and may choose not to undertake inspections for other works. The decision to conduct a site inspection is at the discretion of the Committee.

<sup>11</sup> The Act, Section 18(7). Entities should note that there can sometimes be a delay of up to several weeks after a report is tabled and before an expediency motion is passed. Works must not commence in this period.

- if the Committee is satisfied that the project has merit 'that the House of Representatives resolve that it is expedient that the works be carried out'; or
  - if the Committee is not satisfied that the project has merit 'that the work does not proceed'.
- 1.27 If the Committee has recommended that the work not proceed, the Committee will give justification for this recommendation.
- 1.28 At any stage after the Committee has reported, works can be again referred to it for further consideration and the Committee also has the power to review its reports. If after the works have been approved there are significant changes to project scope, delivery timeframe, cost, function or design, the Committee must be advised and may choose to make a further report to the Parliament on the work.
- 1.29 Following parliamentary approval when the expediency motion has passed through the House, the proponent entity can progress with the project. Any additional recommendations agreed to by the Government must be addressed appropriately and the Committee informed about the progress of implementation.

## Definition of a public work

- 1.30 The definition of a public work is prescribed under Section 5 of the Act. A work can be architectural or engineering work and includes:
- the construction, alteration, repair, refurbishment or fitting-out of buildings and other structures (including demountable buildings);
  - the installation, alteration or repair of plant and equipment designed to be used in, or in relation to, the provision of services for buildings and other structures;
  - the undertaking, construction, alteration or repair of landscaping and earthworks (whether or not in relation to buildings and other structures);
  - the demolition, destruction, dismantling or removal of:
    - buildings and other structures;

- plant and equipment; and
  - earthworks;
  - the clearing of land and the development of land for use as urban land or otherwise; and
  - any other matter declared by the regulations to be a work.
- 1.31 A public work can be located either in Australia or its external territories, or outside Australia, as in the case of a diplomatic mission.
- 1.32 The Act does not extend to works undertaken by authorities declared by the Governor-General to be exempt (as listed in Schedule 3 of the Regulations).
- 1.33 The definition of a public work also includes works financed through lease incentives, leasing or similar funding arrangements where there is a clear intention for the Commonwealth or one of its entities to become the user or owner of those facilities. This most commonly concerns the fit-out of leased accommodation. Where a work would have been deemed a public work if directly funded, the work should be referred regardless of the funding arrangements.
- 1.34 The definition of a public work also extends to Public Private Partnership arrangements (see paragraphs 1.48 – 1.52), regardless of whether the Commonwealth intends to take ownership of the work.

## **What does not constitute a public work?**

- 1.35 A work is not a ‘public work’ if it is not being undertaken by or for the Commonwealth. This is considered a ‘private’ work, i.e. a work undertaken by and for the private or non-government sector.
- 1.36 Also specifically, a ‘work’ does not include:
- the production of, or anything done in relation to, intangible things;
  - the production of, or anything done in relation to, movable property unless the work is, under the regulations, a movable work to which the Act applies;
  - the installation, alteration or repair of plant or equipment where the plant or equipment:

- is not designed to be used in, or in relation to, the provision of services for a building or other structures; and
  - is not necessary or desirable to make a building or structure a complete building;
  - a work proposed to be carried out within the Parliamentary zone<sup>12</sup>;
  - a work proposed to be carried out by or for the Commonwealth by way of assistance to an overseas country; or
  - any other matter declared by the Regulations not to be a work.<sup>13</sup>
- 1.37 If an entity has any doubt as to whether a proposal is considered a work under the Act, it should seek advice from Finance, and if necessary, seek legal advice.

## Referral of public works

- 1.38 Referrals can be made through either House of Parliament or through the Executive Council under certain circumstances. Referrals are coordinated by Finance's Property Legislation and Advice Branch. Therefore, it is important that entities notify Finance by e-mailing [publicworks@finance.gov.au](mailto:publicworks@finance.gov.au) as soon as they identify that a project requires referral. Finance will assist entities with developing their submissions and check that all of the relevant approvals have been obtained before a project is referred to the Committee for inquiry. There is a lead time which depending on the scale and complexity of the project will vary, but may be several weeks or even months.
- 1.39 For clarity and consistency, entities are required to use the following naming convention for projects referred to the Committee:

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<sup>12</sup> Notification of works to be carried out in the Parliamentary zone should be provided to the Joint Standing Committee on the National Capital and External Territories (JSCNCET). More information on the JSCNCET and its resolution of appointment is available at: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/National\\_Capital\\_and\\_External\\_Territories](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Capital_and_External_Territories). The Committee secretariat can provide advice on the format and information to be provided in the JSCNCET notification.

<sup>13</sup> The Act, Section 5 and Section 5AA.

- [name of proponent entity], [meaningful description of the project], [information on location(s)].

1.40 For example, the referral motion might read:

- Department of Defence, Upgrade and construction of aircraft facilities, RAAF Base Amberley, Queensland.

1.41 Entities are also advised to contact the Committee secretariat before a project is referred. The secretariat will be able to provide advice about the Committee's workload and other factors that may affect the inquiry timeframe.

### **Through either House of Parliament**

1.42 Under the Administrative Arrangements Order, the Act is administered by the Minister for Finance. While any Member or Senator can move a motion for a work to be referred to the Committee<sup>14</sup>, by practice referrals are made by the Minister for Finance or her/his delegate, generally a relevant Assistant Minister.

1.43 All Executive action associated with referral of a project, including the preparation of ministerial briefs and supporting documentation, is coordinated by Finance. Finance can advise on the scheduling for referral motions and the processes that need to take place in the Parliament.

### **Through the Executive Council**

1.44 Works may also be referred to the Committee by order of the Governor-General, when both Houses are adjourned for a period exceeding one month.<sup>15</sup> This method of referral can be used during the winter or summer adjournments.

1.45 Should it be necessary for proposals to be referred to the Committee through the Executive Council, entities should consult with Finance, which will coordinate the preparation of the necessary papers and obtain Executive approvals.

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<sup>14</sup> The Act, Section 18(1).

<sup>15</sup> The Act, Section 18(4).

1.46 In practice, it is rare for works to be referred through the Executive Council and, on the whole, referrals are expected to be made through the Parliament.

## **Public private partnerships**

1.47 The Committee requires a two-stage process for consideration of public works proposals to be undertaken by public private partnership (PPP): The two-stage process is appropriate given the focus of PPPs on output rather than input specifications compared to traditional procurements.

### **1.48 First stage**

- Referrals are to be made after the expression of interest stage, but prior to issuing the request for tender.
- The Committee will conduct its inquiry and report to Parliament.

### **1.49 Second stage**

- Once parliamentary approval has been received, the proponent entity may issue the request for tender. A report is to be issued to the Committee once the preferred tenderer has been selected, but prior to entering into contracts.
  - This report should confirm that the scope of works have not materially changed from that which the Committee considered and on which it based its report to Parliament. Where there is significant change, the Committee may require further review of the project.

1.50 The Committee will respond to the proponent entity confirming whether further review is required or if the project may proceed.

1.51 Information regarding the content of PPP submissions is in Chapter 2.

## **Timing of approval process**

1.52 The average time from referral to the Committee reporting on a work to the Parliament is 14 weeks. However, timeframes vary significantly from as

little as four weeks to six months or longer if significant issues arise that need to be addressed.<sup>16</sup>

- 1.53 It is advisable that entities take into account the parliamentary approval process as part of the overall project work plan. In planning for the approval process, entities must take the following into account:
- the Parliamentary sitting calendar. By practice, referrals are only made when the House of Representatives is sitting. Reports can be tabled, and expediency motions moved, only when Parliament is sitting;<sup>17</sup>
  - submissions are to be provided to the secretariat on the day of referral;<sup>18</sup>
  - a lead time of at least six weeks between the referral and the public hearing; and
  - a period of up to two months between the public hearing and the tabling of the Committee's report. This may vary according to the Parliamentary sitting pattern, the Committee's workload and the urgency of a particular project.

## Concurrent documentation

- 1.54 Recognising that delivery schedules for some projects are tight, entities can request Committee authorisation to proceed with 'concurrent documentation'. Essentially, this is a request to proceed with preparation of contract documentation for construction<sup>19</sup> or to proceed with an approach to

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<sup>16</sup> Information on the average time from referral for inquiry to the Committee reporting to the Parliament can be found in the Committee's Annual Reports.

<sup>17</sup> Entities should note that the Committee generally only meets when both Houses of Parliament are sitting (i.e. it generally does not meet in those weeks when estimates hearings are being held and the Senate itself is not sitting).

<sup>18</sup> The Act requires the Minister to table these documents, however it has long been the practice for these documents to be presented directly to the Committee to avoid any additional burden on the Chamber. Nonetheless, entities should give presenting documents to the Committee the same importance as they would tabling documents in the Chamber. If submissions are not ready to be presented to the Committee on the day of referral then the referral should not be made.

<sup>19</sup> The Act specifies only that construction cannot commence before the expediency motion is passed by the House of Representatives. The Committee recognises that some preparatory work is needed to get projects to a design stage where they can be costed. This may see entities entering into contracts design, cost assessments etc. However, entities should not do anything that

market for construction through an expression of interest or similar process, before the Committee has completed its inquiry and reported to the Parliament.

- 1.55 Written requests for concurrent documentation should be addressed to the Committee Chair and include details of the proposed construction or other activities for which approval is being sought. This request should be presented to the Committee (via secretariat staff) following the public hearing, however entities are encouraged to advise the secretariat of their intention to request concurrent documentation ahead of time.
- 1.56 The Committee does not automatically grant concurrent documentation; rather each request is judged on its merits and concurrent documentation is only approved if the Committee is satisfied on the basis of evidence provided that it has no significant concerns in relation to the project. Generally, requests are considered immediately following the public and in-camera hearings, and the Committee's decision notified in writing shortly thereafter.
- 1.57 All contract or other documentation prepared under the concurrent documentation authorisation must make clear that proceeding with the project is dependent on parliamentary approval.
- 1.58 Concurrent documentation approval is not required for the continuation of project design work. However, entities that progress with design while the Committee's report and parliamentary approval are pending need to be aware that the Committee, in its report, may make recommendations which have implications on design.
- 1.59 Entities should note that concurrent documentation should not be requested as a matter of course. It should only be sought when it can be justified by the need for a project to be completed by a particular time and when the deadline cannot be met by other means. It should not be relied upon to compensate for failing to consider the Committee's approval process in project planning.

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commits them to proceeding with the construction/delivery phase of the works or that pre-empt recommendations of the Committee and/or decisions of the Parliament.

## **Dissolution of the Parliament**

- 1.60 When an election is announced, the House of Representatives is dissolved and the Committee ceases to operate. Caretaker conventions are observed and no new major expenditure is approved until after the election. Because the Committee does not operate during this time, no referrals can be made.
- 1.61 At the start of each Parliament, the Committee is reappointed and referrals can once again be made.
- 1.62 Public works that have been referred prior to the dissolution of the House of Representatives, on which the Committee had not reported, will need to be referred to the newly convened Committee following the election. If a public hearing has been already held, the new Committee may choose to report without the need for a new public hearing.
- 1.63 When developing project timeframes, entities should take into account the parliamentary cycle. The House of Representatives is required to be re-elected at least every three years. If a referral is made in the third year of a parliamentary cycle, entities are advised to have a contingency plan in place should an election be called and Parliamentary consideration of a project be delayed.

## **Following parliamentary approval**

### **Post-implementation report**

- 1.64 When referred projects have been completed, entities must provide the Committee and Finance with a post-implementation report. The purpose of post-implementation reporting is to enhance accountability and transparency, and to assist entities to identify any lessons learned. Over time, post-implementation reporting may also help to establish an entities' 'track record'.<sup>20</sup>

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<sup>20</sup> Entities should note that post-implementation reports are not required for medium works, unless requested by the Committee.

- 1.65 The Committee has developed a post-implementation report template to facilitate reporting.<sup>21</sup> The template has two parts – a summary table which is published on the Committee’s webpage and a more detailed component, including a section for ‘lessons learned’, that is confidential to the Committee and to Finance.

## **Public works exemptions under the Act**

- 1.66 The intent of the Act is that all Commonwealth expenditure on public works should be scrutinised by Parliament.
- 1.67 However, Sections 18(8) and 18(8A) of the Act provide that, under certain circumstances, a work or an organisation may be exempted from Committee scrutiny. Exemption may occur on the grounds that a work is:
- urgent;
  - for defence purposes and that scrutiny could be contrary to the public interest; or
  - of a repetitive nature.
- 1.68 In general, if an exemption is being sought, the Committee may seek a briefing from the proponent entity, either in writing or through attendance at a Committee meeting. Proponent entities should write to the Committee at an early stage to inform it of the intention to seek an exemption.
- 1.69 As action by the Minister for Finance is necessary for all exemptions, Finance is responsible for coordinating necessary actions and must also be informed at an early stage if an exemption to the Act is being sought.

### **Urgent works**

- 1.70 Entities should consider with caution any request for exemption because the proposed work is considered urgent or not suitable for public scrutiny.
- 1.71 If the work is of an urgent nature, such exemptions require a resolution by the House of Representatives and are therefore bound by the Parliamentary

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<sup>21</sup> The post-implementation report template is available at: [www.aph.gov.au/pwc](http://www.aph.gov.au/pwc).

sitting calendar. Depending on the sitting pattern, consideration by the Committee may not offer any practical delays.

- 1.72 If an entity is considering a request for exemption on the grounds of urgency, it should in the first instance contact the secretariat to discuss options for urgent consideration of the works rather than an exemption being sought.
- 1.73 Exemptions on the grounds of urgency will not be considered simply because an entity has failed to plan for the Committee's inquiry process and parliamentary approval.

### **Defence works not suitable for public scrutiny**

- 1.74 Likewise, entities must give careful consideration to the true merits of a request for exemption of defence works where scrutiny could be contrary to the public interest. There have been circumstances where exemptions on the public interest grounds have been granted only for the media to later publish details of works as they are occurring, often raising issues of serious public concern that would have been best addressed by the Committee.
- 1.75 The Committee accepts that there are circumstances where public scrutiny is not appropriate. Historically these circumstances have involved risks to national security. However, the Committee does have the capacity to consider works in private and parliamentary scrutiny should always be considered preferable to exemption.
- 1.76 Exemptions on this basis require the agreement of the Governor-General.

### **Repetitive works**

- 1.77 Works are considered to be repetitive if they are substantially similar to other works previously approved by the Committee or are likely to be carried out from 'time-to-time'.
- 1.78 An exemption on the grounds of repetitive works must be agreed to by the Committee before being so declared by the Minister for Finance. Therefore, a written briefing must be provided to the Committee on the nature of the works, with sufficient information so that the Committee can decide

whether the work is indeed repetitive prior to the Minister making a declaration.

- 1.79 If the Committee is not satisfied with the information provided, it may ask for a briefing at a private meeting.
- 1.80 In considering repetitive works, the Committee seeks to satisfy itself on the need, scope and cost of the works. Even if the Committee has previously considered similar works and found the need, scope and cost to be appropriate, it is still necessary to provide these details so the Committee is able to make judgement on a case by case basis.
- 1.81 In some cases it may be appropriate to seek legal advice prior to seeking repetitive works exemption. It is helpful if this advice is provided to the Committee.
- 1.82 If the Committee agrees to an exemption being granted on the grounds of repetitive works, it will advise the proponent entity in writing and the Minister's concurrence may then be sought.

## **Notification of medium works projects**

- 1.83 The Committee must be notified of proposed public works projects with an estimated cost between \$2 million and \$15 million (excluding GST, unless GST is not recoverable), referred to as 'medium works'. Construction of a medium work project must not proceed until the Committee has had an opportunity to examine it and given approval for the project to proceed as a medium work.
- 1.84 This has been a long standing practice supported by successive Committees and Finance Ministers. It has arisen because, in the past, some entities have divided a proposed work into several components each costing less than the statutory referral threshold in order to avoid parliamentary scrutiny through the Committee.
- 1.85 Each medium work notification is examined by the Committee to determine if it has any questions or concerns about the project. It also allows the Committee to review projects that may be close to the statutory referral

threshold, where a relatively small overspend might result in the threshold being exceeded.

- 1.86 If an entity has any doubt as to whether a project needs to be notified as a medium work, it should contact Finance or the secretariat as early as possible.

### **Process and timeframe for medium works notifications**

- 1.87 Medium works notifications are considered at the Committee's private meetings, which are usually held only when both Houses of Parliament are sitting. Entities may liaise with Finance before medium works are notified to the Committee, including seeking guidance on the content of the notification. However, entities themselves are responsible for providing medium work notifications to the Committee via the secretariat at [pw@aph.gov.au](mailto:pw@aph.gov.au). Notifications must also to be provided to Finance at [publicworks@finance.gov.au](mailto:publicworks@finance.gov.au). The secretariat requires notifications at least one week ahead of the scheduled Committee meeting. The secretariat can provide advice on scheduled Committee meetings.
- 1.88 The Committee will consider medium works notifications at its regular private meeting. Generally, entities can expect to be advised of the outcome(s) in writing within 48 hours of the Committee's meeting. Outcomes are likely to be one of the following:
- approval to proceed;
  - approval to proceed, subject to specific conditions or requirements;
  - Committee deliberation postponed, pending further information; or
  - Committee resolution to seek a referral.
- 1.89 Given the range of possible outcomes, entities must inform the Committee of planned medium works well before tenders are called for.
- 1.90 Further information about the detail expected in a medium works notification is outlined in Chapter 2.

# Content of Submissions

- 2.1 In any public works inquiry, the submissions received from the proponent entity constitute the major statements of evidence received by the Parliamentary Standing Committee on Public Works (the Committee).
- 2.2 The Committee requires two submissions from entities on or before the day of referral; one that is to be public and the other containing confidential cost estimates and any other confidential information.
- 2.3 This chapter outlines the basic information to be included in submissions, from proponent entities, as well follow-up information required by the Committee and the need to provide post-implementation reports on project completion.
- 2.4 The chapter also discusses information required public-private partnerships and for notification of 'medium works'.

## **Public submission**

- 2.5 The public submission is considered the primary source of evidence to the inquiry and may draw comment from interested parties during the consultation process. The submission must contain sufficient detail to allow the Committee to make an informed judgement on the proposed project. However, because it is made available to the public, it must not contain any confidential information that might compromise the project, for example detailed cost estimates that are commercial-in-confidence or details of security arrangements. These details must be included in the confidential submission, which is discussed further below.

- 2.6 In considering works, the Committee must have regard for the requirements of the Public Works Committee Act 1969 (the Act), being: the purpose, need, cost, revenue generation and the current and prospective public value of the works. Therefore, information should be structured in such a way that allows the Committee to make judgements against each of these factors.
- 2.7 The following sections outline the basic information required for inclusion in the public submission. This is not exhaustive however, and proponent entities should include any other relevant information.
- 2.8 If the proposal has multiple components, each component should be clearly and separately described.
- 2.9 The Committee expects submissions to address the sections listed below using clear language, page and paragraph numbering and a table of contents.

### *Purpose of works*

- 2.10 This section should identify the purpose of the proposed works, and provide a brief outline of the project's key objectives.

### *Need for works*

- 2.11 This section should identify the need for, and advisability of, the proposed works. It should include, but is not limited to:
- an outline of the policy leading to the need for the works and/or a description of the entity operations leading to the need for the works;
  - deficiencies in current facilities if existing; and
  - historical background if relevant.

### *Options considered*

- 2.12 This section should provide information on:
- the range of options considered to fulfil the identified need (including the 'take no action' option where relevant); and

- the reasons and detailed justification for adopting the proposed course of action.

2.13 Where a cost benefit analysis has been conducted, the Committee may ask for this to be provided along with the detailed costings provided in the confidential submission (see paragraph 2.58).

### *Scope of works*

2.14 This section should provide details of the scope of the proposed works, and how it will fulfil the need. It should include detailed description of the proposed scope of works, including but not limited to:

- details and reasons behind site selection and project location:
  - relevant local facilities;
  - public transport;
  - local road and traffic concerns; and
  - information on zoning and local approvals, including land acquisition if relevant;
- planning and design concepts including information, where it is known, on:
  - structure;
  - materials and furnishings;
  - mechanical services;
  - hydraulic services;
  - electrical services;
  - acoustics;
  - landscaping; and
  - any other civil works.
- environmental sustainability of the project as a whole, including:

- energy targets (such as the National Australian Built Environment Rating System. See the Energy Efficiency in Government Operations Policy document<sup>1</sup>);
  - measures to reduce energy and water use, including recycling measures in place;
  - re-use of existing structures;
  - demolition and disposal of existing structures; and
  - details of compliance with local, state/territory and Commonwealth water and energy policies.
- master and site planning, including details of future developments;
  - provisions for people with disabilities;
  - childcare provisions;
  - security measures, except where it is not appropriate that this information be in the public domain, in which case it must be addressed in the confidential submission;
  - fire protection including bushfire protection measures where relevant;
  - occupational health and safety measures; and
  - any associated plans and drawings.

2.15 Any components which fall outside the required scope of works, but which may be included later, pending available funds, should be listed in this section. These components are sometimes referred to as ‘below-the-line’ items.

## Other issues

2.16 This section should include information on any other issues that are relevant to the proposed project, including but not limited to:

- advice on key legislation applying to the proposed project;
- heritage or geographical considerations;

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<sup>1</sup> Available at: <http://www.industry.gov.au/Energy/EnergyEfficiency/Non-residentialBuildings/GovernmentBuildings/EnergyEfficiencyOperations/Pages/EnergyEfficiencyOperationsPolicy.aspx>.

- environmental impact assessments;
- anticipated impacts on the local community and measures taken to mitigate any negative impact (i.e. employment, traffic flow, community resources); and
- details of consultations with relevant stakeholders, key issues of concern raised and information on how these will be addressed.

### *Cost-effectiveness and public value*

#### *Cost effectiveness*

- 2.17 This section should identify the total estimated cost and delivery methodology of the project, so that the Committee can assess whether it is being undertaken in an efficient and cost-effective manner.
- 2.18 This section should include, but is not limited to:
- forecasted project cost and available budget;
  - details of the project delivery method; and
  - construction programs and/or project schedule (details of any applicable defect periods should also be included).
- 2.19 The project budget should total all allocated funding being used to fund the project. In addition to works financed through specific project appropriation, this includes financing from the entity's annual appropriation or other funding mechanisms such as lease incentives, leasing or similar repayments. Proponent entities should include a statement confirming that the budget allocation is sufficient to cover the anticipated cost of the project.
- 2.20 Although the overall project cost is noted in this section, any details that are of a commercial-in-confidence nature should be included in the confidential submission.

#### *Revenue*

- 2.21 If the works are expected to be revenue producing, the Committee must be advised about the amount of revenue the work is expected to produce and how the revenue will be utilised. It may be appropriate that details are included in the confidential submission.

### *Public value*

- 2.22 This section should articulate the current and prospective public value of the proposed works. Public value provides entities and the Committee with a notion of how a project can contribute to the common good. In the context of a proposal referred to the Committee, public value could be considered, amongst other things, as the impact the proposal would have on the local community. This could include employment created and the effect on local business activity and existing infrastructure services.
- 2.23 In addition, if operational savings are to be expected as a result of the proposed works they should also be identified. It may be appropriate that these details are included in the confidential submission where there is a requirement for whole-of-life costs to be addressed.

### **Confidential submission**

- 2.24 The confidential submission contains information that may not be in the public interest to release. This includes a detailed breakdown of the project's costs, confidence ratings, risk assessment and management framework, and any other sensitive information that may compromise the project if released, such as security arrangements. It can also be useful to include additional information, such as professional costings or quantity surveyor reports.
- 2.25 Although as a general rule, the Committee prefers as much information as possible regarding a proposal to be in the public domain, it relies on the judgement of the proponent entity regarding the information that should remain confidential. If a proponent entity requires that information generally included in the public submission be kept confidential, it should provide reasons.
- 2.26 In this submission the Committee requires information regarding:
- cost estimates, including:
    - cost escalation allowances;
  - risks;
  - project governance;
  - confidence levels;

- 'whole-of-life' costs; and
- any cost-benefit analysis relating to the proposed works or leasing arrangements.

2.27 These areas are outlined in more detail below. The Department of Finance (Finance) can provide detailed guidance on the preparation of this information.<sup>2</sup>

2.28 The cost estimate of a work means 'an estimate of cost made when all particulars of the work substantially affecting its cost have been determined.'<sup>3</sup> Therefore, some preliminary planning work will need to occur in order to develop robust plans and cost estimates. These costs, while necessary, still form a part of the overall cost of works and should be notified to the Committee.

### *Cost estimates*

2.29 This section includes a breakdown of all expected final costs. This section should make clear what areas funding is being applied to, if multiple funding sources are being used. That is, what will be financed by a project-specific appropriation, lease incentives, leasing or similar repayments and through works funded through the entity's annual appropriation.

2.30 This section should also make clear what level of project scope and design development underpins the estimates.

2.31 If a cost plan has been commissioned as part of the project planning, it may provide the majority of the information required by the Committee.

### *Table of cost estimates*

2.32 The table of cost estimates provided to the Committee is similar to the detailed business case prepared for Finance and required for Government approval.

2.33 The table of cost estimates should include, but not be limited to:

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<sup>2</sup> Please refer to the Department of Finance (Finance) Property Management Framework (Property Framework) Resource Management Guides (RMG) at: <https://www.finance.gov.au/resource-management/index/#property>.

<sup>3</sup> The Act, Section 18A (9).

- cost of the building(s);
- land costs where land was purchased for the project, regardless of when it was purchased;
- cost of any external works and services, such as civil, electrical and mechanical works;
- costs of demolition, remediation, decontamination;
- relocation costs, where applicable;
- cost provisions for phasing of construction;
- fees for project management, consultancies or other professional services related to the work;
- the entity's internal planning, management and oversight costs;
- GST is not included, except where a net payable amount is applicable or where input tax credits are available but cash flow at any stage of the project is significantly impacted;
- escalation allowance;
- risk estimation, including contingency;
- total estimated cost at current prices; and
- estimated costs for 'below-the-line' items. See paragraph 2.15.

*Additional information required for fit-out works*

- 2.34 The Committee requires some additional information for fit-out projects. For office space within a fitout, an estimate of occupational density should be provided and related to Government's target of 14m<sup>2</sup> of Usable Office Area per Occupied Workpoint.
- 2.35 The Committee also requires fit-out costs to be presented as a 'per square metre' estimate. Where, in addition to a fit-out, a project comprises base building works or other scope elements, the fit-out component should be separated out for the purpose estimating the per square metre cost. The cost per square metre estimate should encompass:
- all capital construction works, including design, project management, consultancy costs and construction contingencies.

- 2.36 Non-construction related costs such as non-construction contingencies, relocations and fixtures and fittings should be excluded.
- 2.37 The Committee has observed over time that the costs of a standard fit-out in metropolitan areas in Australia generally falls between \$1,200 and \$1,800 per square metre. In cases where the estimated cost of a fit-out is above \$1,800 per square metre, the Committee expects that proponent entities should explain factors that have influences the fit-out costs. Factors might include, but are not limited to:
- The size and type of building;
  - Location;
  - The grade/quality of the fit-out;
  - Open plan versus individual offices/meeting rooms;
  - Traditional office fit-out versus flexible or activity based workplaces;
  - Specific ICT infrastructure requirements; and
  - Specific security requirements.
- 2.38 Entities should link these factors to the purpose of the project and associated business or capability requirements.

*Additional information required for overseas projects*

- 2.39 Where works are being undertaken overseas, this section must include assumptions underpinning the estimated costs including:
- exchange rates;
  - allowances for movement in exchange rates;
  - costs related to local market conditions;
  - all applicable international taxes; and
  - additional detail if the fit-out costs are above \$1,800 per square metre.

*Escalation allowance*

- 2.40 Entities are required to identify an estimated escalation allowance. Escalation allowances should not be simply added to contingency.

- 2.41 Escalation allowances are designed to offset the expected rise in the cost of trade and works over the construction period occurring as a result of market forces, and reflect increases in the cost of labour and materials and higher levels of construction activity. Escalation calculations should allow for price increases that are likely to be incurred by the head contractor, sub-contractors and suppliers.<sup>4</sup>
- 2.42 At a minimum, the Committee requires confidential submissions to include:
- estimated escalation allowance expressed as a dollar figure and percentage of the cost estimate over the time period escalation is expected; and
  - explanation of how the allowance for cost escalation has been calculated. This should include the date of preparation of the cost estimate, the expected tender date, the expected construction period, and the expected rate of escalation.

### *Risk estimation, assessment and management*

- 2.43 Separate to the escalation allowance, entities are also required to provide a risk estimation. The risk estimation should be expressed as a dollar figure and percentage of the cost estimate, and should take account of:
- *Inherent risk* – risks contained within the components of the base estimate that are very likely to occur in some form; and
  - *Contingent risk* – risks attached to items outside the base estimate that have less than 100% likelihood of occurrence.
- 2.44 The Committee also requires evidence that the entity has performed rigorous risk assessment and developed a robust risk management framework.
- 2.45 Regardless of whether the Commonwealth retains project risks, or these risks are assumed by the contractor and therefore priced into project

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<sup>4</sup> Various methods are available for estimating escalation allowances: estimating the forecast end cost using either the relevant Building Price Index or the Consumer Price Index at an 'industry standard' level; or engaging the services of a professional Quantity Surveyor. The Committee has no preference as to which method is used.

delivery, the confidential submission must include a risk assessment listing the key risks attached to the project.

- 2.46 For those projects subject to the Gateway Review Process<sup>5</sup>, a risk management plan is required for the 'Gate 1 – Business Case' review and a summary of this is adequate for submission to the Committee.
- 2.47 Risk assessments should be in a form that allows the Committee to easily identify key risks and who is broadly responsible for their mitigation (i.e. the entity, the contractor). Some key issues include, but are not limited to:
- design complexity;
  - scheduling;
  - buildability;
  - contracting environment and tendering strategy;
  - environmental considerations (accessibility of site location, contamination, flora, fauna and heritage);
  - geotechnical and geographic considerations;
  - social and political environment; and
  - market forces.
- 2.48 The risk assessment must demonstrate that the entity has completed risk identification and developed a management framework. Entities must provide a risk matrix showing evidence of:
- identification of each risk;
  - analysis of each risk, specifically:
    - likelihood of the risk occurring; and
    - consequences of the risk occurring;
  - evaluation of each risk, including a ranking of all risks in order of priority; and

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<sup>5</sup> For more information on the Gateway Review Process, including criteria and thresholds for eligibility see: <http://finance.gov.au/assurance-reviews/review-process/> and RMG 106 .

- treatment of each risk, including avoidance of the risk, reducing likelihood or consequences of the risk and post-mitigation evaluation, sharing or transfer of the risk, or acceptance/retention of the risk.

2.49 In summary, at a minimum, the Committee requires confidential submissions to include:

- a risk estimation, including contingency, expressed as a dollar figure and percentage of the cost estimate<sup>6</sup>; and
- a risk assessment, including a risk matrix which sets out the key temporal, financial, physical and legal risks attached to the project, and appropriate management strategies.

### *Confidence levels*

2.50 The Committee acknowledges that projects are brought to it at varying stages of development and, consequently, cost estimates are within a range of accuracy relating to the design stage. While the Committee expects a single point estimate of delivered project costs, it also expects information pertaining to the accuracy and confidence level attaching to the cost estimate.<sup>7</sup>

2.51 At a minimum, the Committee requires submissions to include:

- the cost estimate range and the confidence level attaching to the estimate; and
- key milestones when project costs are reviewed and the projected confidence level at that stage.

2.52 Finance has tools available to assist entities in calculating confidence levels. Please see <http://www.finance.gov.au/assurance-reviews/> for more information.

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<sup>6</sup> For more guidance on risk estimation please contact Finance.

<sup>7</sup> The Committee expects a P80 confidence level. This is the cost estimate based on a detailed costs analysis from the Functional Design Brief, site due diligence and Concept designs plus an allowance for risk based on the probabilistic costs (consequence x probability of occurrence). AP80 confidence level indicates an 80 per cent probability that the total estimated cost (base cost plus contingency) of a project will not be exceeded.

### *Whole-of-life costs and cost-benefit analysis*

- 2.53 As a part of its responsibility under the Act to consider the public value of works, the Committee requests the provision of whole-of-life (or life-cycle) cost estimates. The Committee has an expectation that whole-of-life costing analysis is part of any decision to pursue public works and is utilised in any comparative study regarding options considered in relation to the works (i.e. whether to build new or renovate existing facilities).
- 2.54 This section should provide a summary of the whole-of-life costing analysis. In considering whole-of-life costing, the Committee requires that, at a minimum, the following are considered:
- capital cost;
  - life-time operating costs;
  - life-time maintenance costs;
  - asset disposal cost; and
  - summary of the assumptions that underpin the analysis model.
- 2.55 The Committee notes that lease incentives may form part of the financing of projects. Where lease incentives have been used to finance projects, the Committee expects to be provided with the ongoing lease costs and other relevant details relating to the incentive. Fit-out projects utilising lease incentives should provide an analysis of the benefits gained by financing the works through lease incentives, rather than full financing of the works by the proponent entity.
- 2.56 The Committee does not consider interest-bearing loans provided by lessors as a lease incentive. Such incentives or loans can lead to hidden ongoing costs to proponent entities, and in the Committee's experience, could be used to understate the costs of the project to the Commonwealth.
- 2.57 In assessing whole-of-life costs, the Committee will take into consideration the design stage as well as the confidence level attached to the project.<sup>8</sup>

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<sup>8</sup> Please refer to Finance's Property Framework RMG at: <https://www.finance.gov.au/resource-management/index/#property>.

- 2.58 For many projects proponent entities are required to prepare a cost-benefit analysis<sup>9</sup> as part of Finance’s review processes. The Committee requires that any such cost-benefit analysis be provided as an attachment to the confidential submission. There is an expectation that relative advantages and disadvantages of a proposed work will be considered at the whole-of-government level rather than at the level of the individual entity.

## Public private partnerships

- 2.59 The submission requirements for works to be undertaken by public-private partnership (PPP) submissions are broadly the same as the general information requirements outlined in this chapter. Allowances will be made for PPP submissions where information is unavailable due to the nature of the PPP process.
- 2.60 Examples of allowances that will be made include, but are not limited to:
- inclusion of output requirements of the work, rather than detailed design and input specifications; and
  - inclusion of a detailed costing of a direct procurement option (Public Sector Comparator<sup>10</sup>) rather than final costs.
- 2.61 Submissions should include a risk assessment, including identification of key risks and their allocation between the public and private sector under traditional and PPP approaches and provide an indication of which risks are likely to result in a value for money outcome when transferred under a PPP approach.

## Medium works notifications

- 2.62 As outlined in Chapter 1, all works with an estimated cost between \$2 million and the threshold limit, currently \$15 million, require Committee

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<sup>9</sup> Details on when a cost-benefit analysis is required are available in RMG 500 and RMG 502.

<sup>10</sup> Details on the Public Sector Comparator can be found in the PPP Business Case Development guidance at [www.finance.gov.au](http://www.finance.gov.au).

approval before seeking tenders for construction.<sup>11</sup> These amounts are exclusive of GST, unless GST is not recoverable. The Committee may seek to have the project referred for inquiry if it considers this is warranted, therefore it is essential that Committee approval is factored into project timeframes.

2.63 At a minimum, the following information must be provided:

- project title;
- purpose of the proposed work;
- need for proposed works;
- options considered;
- scope/description of the proposed work, , including:
  - location;
  - environmental impact;
  - heritage or geographical implications; and
  - any existing facilities;
- related works, both current and prospective;
- consultation undertaken in relation to the work;
- any likely community impacts of the proposed work;
- relevant maps and/or plans;
- project program/schedule; and
- breakdown of project cost estimates, including details of any escalation and contingency allowances.

2.64 For fit-out works, the Committee's requires occupational density for office areas and fit-out costs to be provided per square metre. See paragraphs 2.35-2.38.

2.65 While the level of detail included for a referral is not required, the sections discussed earlier in this chapter should be used as a guide. Notification of

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<sup>11</sup> Whilst projects under \$2 million are not brought to the Committee's attention, care should be taken to ensure that individual components of bigger projects are considered and included in the public works process.

medium works may be discussed with Finance in the first instance, especially where entities are seeking guidance on the content of the notification. Entities will be responsible for providing the notification to the Committee via the secretariat at [pwc@aph.gov.au](mailto:pwc@aph.gov.au) and also for copying in Finance at [publicworks@finance.gov.au](mailto:publicworks@finance.gov.au).

- 2.66 If it is not satisfied with the information provided, the Committee may request additional information, either in writing or in the form of a private briefing. Should the Committee consider it warranted, it may seek referral for inquiry.
- 2.67 The information provided in a medium works notification remains confidential to the Committee, except for the following, which will be published on the Committee's website:
- project title;
  - entity name; and
  - date on which the Committee was notified of the proposed works.

## Follow-up activities

- 2.68 The Committee must be updated on any significant changes to the scope, time, cost, function or design for all projects, including medium works notifications. Updates should be provided to the Committee in writing.
- 2.69 In addition, where in its report to the Parliament the Committee has made project-specific recommendations, entities must provide updates on action or progress in accordance with timeframes as set out in the recommendations.
- 2.70 Within three months of practical completion, proponent entities are required to submit a post-implementation report to the Committee. For some projects it may be appropriate to provide a post-implementation report at the end of the defect period, in which case entities should advise the Committee accordingly. A template for the post-implementation report is available on the Committee's website.<sup>12</sup>

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<sup>12</sup> [www.aph.gov.au/pwc](http://www.aph.gov.au/pwc).

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- 2.71 This document is separated into two sections; the first includes public information and assesses if the project remained within the advised scope, cost and timeframe. This section is made publicly available on the Committee's website. The second section reviews confidential matters such as risk management, contractual and consultation processes, lessons learned and user satisfaction. Once received by the Committee, the entire report is provided to Finance for data collection and review. This section remains confidential to the Committee and Finance.
- 2.72 As noted previously, medium works notifications do not require a post-implementation report, unless otherwise requested in the Committee's letter of approval.



# Committee Processes

- 3.1 The Parliamentary Standing Committee on Public Works (the Committee) follows the same basic process for each referral made to it. This chapter outlines the process of an inquiry; including receiving submissions and conducting site inspections and public and in-camera hearings.
- 3.2 The Department of Finance (Finance) organises and schedules the referral of works to the Committee. More information on these processes can be found in Chapter 1. All Committee processes between referral and tabling of the Committee report are managed by the Committee secretariat, staffed by the Department of the House of Representatives.
- 3.3 All entities should contact the secretariat when their referral is imminent. The secretariat can provide general advice on the *Public Works Committee Act 1969* (the Act)<sup>1</sup>, on all aspects of this manual and on the Committee's work program.

## Process for parliamentary approval of public works

- 3.4 Stages of the parliamentary approval process for public works are described throughout this manual and can be found in the flowcharts in Appendix A. The following section describes in detail what steps the Committee follows once a work is referred.

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<sup>1</sup> This is not a substitute for legal advice. Ultimately responsibility rests with entities for determining if under the *Public Works Committee Act 1969* (the Act), a proposed project is subject to inquiry by the Parliamentary Standing Committee on Public Works (the Committee).

- 3.5 There are six basic steps in the parliamentary approval process for public works. These are:
- referral of a proposal to the Committee;
  - public consultation;
  - site inspection ;
  - a public hearing and in-camera hearing on the cost estimates;
  - preparation and tabling of the Committee’s report on the proposal; and
  - parliamentary approval by the House of Representatives for work to commence (expediency motion).

### *Referral of work*

- 3.6 The process for referring a work to the Committee is managed by Finance and is outlined in Chapter 1. Entities are reminded that they should liaise with Finance (see p. vii for contact information) well in advance of anticipated referral. Finance will assist entities with developing their submissions and check that all of the relevant approvals have been obtained, before a project is referred to the Committee for inquiry. There is a lead time, which depending on the scale and complexity of the project will vary, but may be several weeks or even months.
- 3.7 On or before the day the referral is made, entities are expected to e-mail two submissions to the secretariat. The submissions are to be e-mailed as separate documents to [pwc@aph.gov.au](mailto:pwc@aph.gov.au).
- 3.8 As stated in Chapter 2, the first submission will be made public.<sup>2</sup> Entities are responsible for ensuring all information contained in this document is suitable for the public domain. The second submission is kept confidential.
- 3.9 Although the confidential submission generally consists only of the cost plan and associated risk assessment, other information that is not suitable for the public domain can also be included if necessary (e.g. details of security arrangements). However, it is the Committee’s preference that, wherever possible, information regarding public works be in the public domain.

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<sup>2</sup> In some, limited, circumstances an inquiry may be conducted in private. Entities should be in contact with the secretariat well before the referral is made if this is to be the case.

- 3.10 If submissions are not ready to be presented to the Committee on the day of referral, proponent entities should liaise with Finance to re-schedule the referral motion.
- 3.11 Entities are also asked to identify a primary contact officer who will liaise with the secretariat throughout the inquiry. The contact officer should be a reasonably senior person, who is both able to answer detailed questions on the proposed works and who is authorised to make decisions on behalf of the entity regarding Committee processes.

### ***Public and stakeholder consultation***

- 3.12 Following referral, the proposed works are open for public comment. The Committee will advertise through whichever means it considers appropriate for the nature of the work. Any media releases issued by the Chair are available on the Committee's website. Unless confidential, submissions are also published by the Committee on its website.
- 3.13 Where projects could reasonably be expected to have an impact on the public or other stakeholders (external or internal), entities are expected to consult with affected groups. As part of the public submission, entities are requested to provide a list of stakeholders consulted, identify any issues raised and proposed responses or actions to address issues of concern.
- 3.14 Entities conducting public and stakeholder consultation sessions must make it clear in advertising, and to session participants, that the Committee is conducting an inquiry and accepting submissions. The secretariat can assist with wording for advertisements and provide information about the Committee for distribution if necessary.
- 3.15 Where no stakeholder consultation is undertaken, entities are required to provide a statement confirming that there is no expected public or stakeholder impact associated with the project.
- 3.16 Some submissions will require a response from the proponent entity although generally, the Committee will raise issues at the public hearing if warranted. It is the responsibility of the proponent entity to check the Committee website for additional submissions and prepare a response if necessary.

- 3.17 Submissions are authorised for publication by the Committee prior to loading on the website. There may be some delay between the closing date for submissions and publication, depending on the Committee's meeting schedule. The secretariat can provide advice as to when submissions are likely to be authorised.<sup>3</sup>

### *Site inspection and hearings*

- 3.18 Soon after a referral is made, the secretariat will (where the Committee has determined a site inspection is needed) contact the proponent entity to confirm a date for the site inspection and for hearings. The date is set by the Committee and will usually be four to six weeks after referral. This is to allow sufficient time for other interested parties to provide comment on the proposal.
- 3.19 Where the Committee determines that an inspection is either not required or is not possible or practicable (for example due to a remote or overseas location), the proponent entity is usually required to provide an inspection by presentation with the aid of diagrams, maps, videos and photographs. Inspections by presentation generally take place in Canberra and immediately precede the public and in-camera hearings.
- 3.20 Once an inspection/hearing date has been set, the secretariat will liaise with the proponent entity to develop a program for the day. Where hearings are held away from Canberra the secretariat may seek the advice of the proponent entity as to suitable venues for public and in-camera hearings.

### *Site inspection*

- 3.21 Site inspections enable the Committee to familiarise itself with the setting of a proposed work, the condition or extent of any existing facilities, any unusual site features, characteristics or matters concerning local geography that may have been raised in submissions.

### *Transport*

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<sup>3</sup> See [http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=document/howsub.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=document/howsub.htm) for more information about the treatment of submissions to parliamentary inquiries.

3.22 Proponent entities are usually responsible for arranging any road transport required during the inspection. The Committee and secretariat staff travel as a group during inspections, generally accompanied by entity officers involved in the project. The secretariat will discuss appropriate arrangements with the primary contact officer. As time for site inspections may be limited, entities should ensure that arrangements have been made to seamlessly authorise access to the site for Committee members and staff.

*Number of officers attending inspections*

3.23 The number of entity officials and consultants attending the inspection should be kept to the minimum needed to give the Committee a comprehensive briefing on the site being inspected. However, entities should have officers available who are able to explain the facilities being inspected.

*Scope of inspections*

3.24 Inspections usually include an on-site briefing intended to provide site orientation and background. It can be useful if maps and charts provided with the submission are used to help provide orientation.

3.25 In addition to providing the Committee with a physical and visual experience of proposed works, inspections should include any existing facilities or features of the site identified in the proponent entity's main submission. Where a proposal is for new works, it can be useful for the Committee to view similar works or the facilities that are being replaced.

3.26 For example, for a new office fit-out, the Committee may visit the site of the new building for an understanding of the location and nearby amenities, as well as a tour of existing facilities identifying the deficiencies and the need for the works.

3.27 It is useful to provide the Committee with a program for the inspection, indicating each facility to be viewed. This helps to orient the Committee to the site and assists in presenting the proposal in a logical manner.

3.28 In the week prior to the inspection, ensure that:

- the secretariat is advised of the names of those officers who will be accompanying the Committee on the site inspection and if there are any requirements for safety dress (i.e. enclosed shoes);
- there is the facility for the Committee and secretariat to be seamlessly authorised to access the site to avoid delays; and
- appropriate safety equipment such as hard hats, vests and glasses are available.

#### *Duration of inspections*

- 3.29 The duration of the site inspection will vary according to the location, complexity and scope of the proposed works.
- 3.30 It is suggested that entities conduct a 'run through' of the planned route prior to the actual inspection. This not only assists with planning timeframes, but it is also a useful exercise for the entity to help identify areas of interest.

#### *Public hearing*

- 3.31 Following the site inspection or presentation, the Committee will hold a public hearing to question entity representatives on the details of the proposal. This hearing is open to members of the public. If the media attends, the Committee will seek witnesses' agreement for filming to occur, if that is the intention. As a general rule, the media is permitted to take footage on the principle of an open and transparent process.
- 3.32 The Committee may also hear from other witnesses in relation to the proposal, either in response to submissions made or significant public interest. It is the Committee's prerogative to hear from witnesses as it sees fit.

#### *Venue*

- 3.33 The public hearing venue is organised by the secretariat, however, the secretariat may seek advice from the proponent entity on an appropriate venue which is close to the site of the proposed work.
- 3.34 The size of the venue will depend on the number of witnesses and public interest. The minimum requirements for a venue are: a room large enough to

accommodate the Committee, parliamentary officers, witnesses and up to 30 members of the public in a location that is easily accessible by the general public.

#### *Venue set-up*

3.35 The secretariat will liaise with the venue to ensure that it is set up appropriately. On the day, a parliamentary broadcasting officer will set up the necessary equipment. The room set up should not be reconfigured in any way without first speaking to the secretariat. Should there be a need to display models, plans or other visual material, the secretariat should be told well in advance of the hearing.

#### *Witness details*

3.36 In the weeks prior to the hearing, the secretariat will request:

- a list of names of those officers who will be accompanying the Committee on the site inspection;
- a completed Hansard witness form<sup>4</sup> for each individual appearing before the Committee at the public hearing; and
- a completed Hansard witness form for each individual appearing at the in-camera hearing, if not also appearing at the public hearing.

3.37 This information, including completed Hansard forms, should be centrally coordinated by the entity's primary contact officer and forwarded in one e-mail to the secretariat.

#### *Conduct of the public hearing*

3.38 The Committee's proceedings are lawful proceedings of the Parliament and therefore warrant the same respect as the Parliament itself. It is parliamentary convention that witnesses address the Committee through the Chair.<sup>5</sup>

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<sup>4</sup> The current form will be e-mailed to the entity contact officer for distribution to witnesses.

<sup>5</sup> Information about appearing before a committee is available on the Parliament website at [http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=documnts/witadv.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=documnts/witadv.htm).

3.39 At the commencement of the public hearing, the Chair makes an opening statement setting out the matter under consideration and issuing a general warning to witnesses as follows:

Although the Committee does not require you to give evidence under oath, I should advise you that these hearings are formal proceedings of the Parliament. Consequently they warrant the same respect as proceedings of the Parliament itself. I remind witnesses that giving false or misleading evidence is a serious matter and may be regarded as contempt of Parliament.

3.40 While the Committee has the power to take evidence under oath, this is generally not done. Nonetheless, witnesses are obliged to provide truthful information to the Committee.

3.41 The Chair will also ask witnesses to state their full name<sup>6</sup> and the capacity in which they appear before the Committee. If a consultant is appearing as a witness because of their role in advising the proponent entity, they should identify themselves by their employing firm.

3.42 After the above formalities are complete, the Chair will ask the lead witness to make an opening statement. This should be brief (no more than five to ten minutes duration) and summarise the key points of the proposal, being the need for and scope of the proposed works.

3.43 If there are any amendments to the evidence, it should also be outlined in the opening statement. Additional material, such as updated risk assessments, should be provided to the secretariat at least a week prior to the hearing if possible.

3.44 The Committee then proceeds to question entity officials. The Committee has wide scope to follow any line of inquiry it sees fit to satisfy itself under its terms of reference. Therefore, entities should be prepared to answer questions beyond the scope of the proposed works. In particular, the Committee will be looking to satisfy itself that the works are necessary.

3.45 Questions may be taken on notice and answers must be provided to the secretariat within five business days. It is the proponent entity's

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<sup>6</sup> First and last name only is appropriate.

responsibility to note down any questions they are directed to take on notice.

- 3.46 When the Committee has finished questioning the proponent entity, any other witnesses are called according to a program published by the secretariat. Other witnesses may or may not have made a written submission to the Committee.
- 3.47 All other witnesses are given the opportunity to make a short opening statement (generally no longer than five minutes in length) and are questioned by the Committee.
- 3.48 The Committee may also choose to hear evidence from witnesses as part of a 'community statement session' whereby individuals have an opportunity to make short statements about the proposal but are not questioned by the Committee.
- 3.49 If the Committee feels it is warranted, it may re-call entity witnesses to address any concerns raised by other witnesses. This is not an opportunity to reiterate why a work should be approved, as the proponent entity has already had this opportunity through its initial evidence. An entity will only be re-called to answer specific questions the Committee may have. If a proponent entity wishes to respond to other evidence given, it may do so in writing.
- 3.50 At the conclusion of the public hearing, the Committee will authorise publication of the evidence, including any additional submissions received. The public hearing adjourns and all people not authorised by the Committee and the proponent entity to attend the in-camera hearing are asked to leave the room.

#### *In-camera hearing*

- 3.51 The in-camera hearing is an opportunity for the Committee to question the proponent entity on the estimated cost plan and other commercial-in-confidence or security related matters.
- 3.52 Procedurally, the in-camera hearing is conducted in a similar manner to the public hearing, except that the public, including media, is excluded from the room. Proponent entities are responsible for ensuring that no unauthorised

individuals are in the room.<sup>7</sup> Proceedings are recorded, but the transcript of proceedings is not published.

## **Preparation and tabling of the Committee's report**

- 3.53 Following the inspection and hearings, the secretariat will send the entity's primary contact officer a copy of the public hearing transcript for correction. The contact officer should distribute the transcript to entity witnesses, as appropriate. Witnesses may correct only actual errors in the transcript to ensure accuracy of records. Corrections must be returned to the secretariat.
- 3.54 The Committee may also seek clarification or additional information. This information must be provided as soon as practicable as it is often required for the completion of the Committee's report.
- 3.55 Once the Committee has agreed to its report, it authorises the secretariat to release its recommendations under embargo. All recommendations are sent to the proponent entity and Finance for the purposes of preparing the government response (i.e. the expediency motion and accompanying statement). It is important that the recommendations are kept confidential until the report has been tabled in the Parliament. Release of recommendations ahead of tabling could be considered to be contempt of Parliament.
- 3.56 The Committee will table its report in both the House of Representatives and the Senate at the earliest opportunity for Parliament's consideration.
- 3.57 Finance, in consultation with the proponent entity, is responsible for preparing an expediency motion for the House, if so recommended by the Committee. The expediency motion is moved by the Minister for Finance (or delegate), along with a statement delivered to the House of Representatives.
- 3.58 The statement also includes responses to all recommendations made by the Committee, indicating what action will be taken to address them. Together, the expediency motion and statement are considered to be the government's response to the Committee's recommendation(s).

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<sup>7</sup> The secretariat, Hansard and broadcasting staff are authorised by the Committee to be present at the in-camera hearing.

- 3.59 It should be noted that work cannot begin until the expediency motion has been approved by the House of Representatives.

### **Parliamentary approval**

- 3.60 Parliamentary approval for the works to proceed can only be given after both Houses have had an opportunity to consider the Committee's report. In practice, the Minister for Finance or her/his delegate generally moves the expediency motion in the same week as the Committee's report is tabled. Other Members may speak to the motion before the House votes.
- 3.61 The secretariat is able to provide advice at any stage prior to and during the inquiry process. Entities are encouraged to contact the secretariat as soon as it becomes apparent that a proposed work may be subject to the requirements of the Act.



# Parliamentary Standing Committee on Public Works Process, Checklist and Flowcharts

The following checklist and flowcharts are provided to assist proponent entities preparing for referral of a project or a medium works notification to the Parliamentary Standing Committee on Public Works (the Committee).

The flowcharts show each stage of the inquiry. Timeframes will vary and are influenced by a range of factors including the parliamentary sitting calendar (available from the Parliament's website<sup>1</sup> or the Department of Prime Minister and Cabinet's website<sup>2</sup>), the scale and complexity of the project and the Committee's workload. The secretariat is able to provide advice on timeframes and entities which have projects to refer are encouraged to contact the secretariat well in advance to discuss timeframes.

## Checklist for Committee process (referrals)

### Pre-referral

- All Department of Finance (Finance) procedures and requirements under the *Public Works Committee Act 1969* have been complied with.

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<sup>1</sup> [www.aph.gov.au](http://www.aph.gov.au).

<sup>2</sup> [www.pmc.gov.au](http://www.pmc.gov.au).

- A contact officer identified who is both able to answer detailed questions on the proposed works and authorised to make decisions on behalf of the entity.
- The Committee secretariat has been advised of the referral and the entity contact officer.
- The public and confidential submissions have been completed and approved by all relevant internal entity processes.

### **Day of referral (or before)**

- Both submissions have been e-mailed to the Committee secretariat.

### **Pre-hearings**

- Contact made with the Committee secretariat regarding inspection and hearing, possible hearing venues advised.
- Site inspection planned (if required) and accurate timings advised to the Committee secretariat.
- Transport has been organised for site inspection.
- Proponent entity to advise the Committee secretariat of the names of those officers who will be accompanying the Committee on the site inspection and if there are any requirements for safety dress.
- Appropriate safety equipment such as hard hats, vest and glasses are available.
- Facility for the Committee and secretariat staff to be seamlessly authorised to access the site arranged.
- Hansard forms returned to the secretariat.

### **Post-hearings**

- Any requests made at the inspections and/or hearings have been responded to within five business days.

### **The Committee's report**

- Embargoed recommendations responded to for expediency motion.

### **Post-Committee process and project implementation**

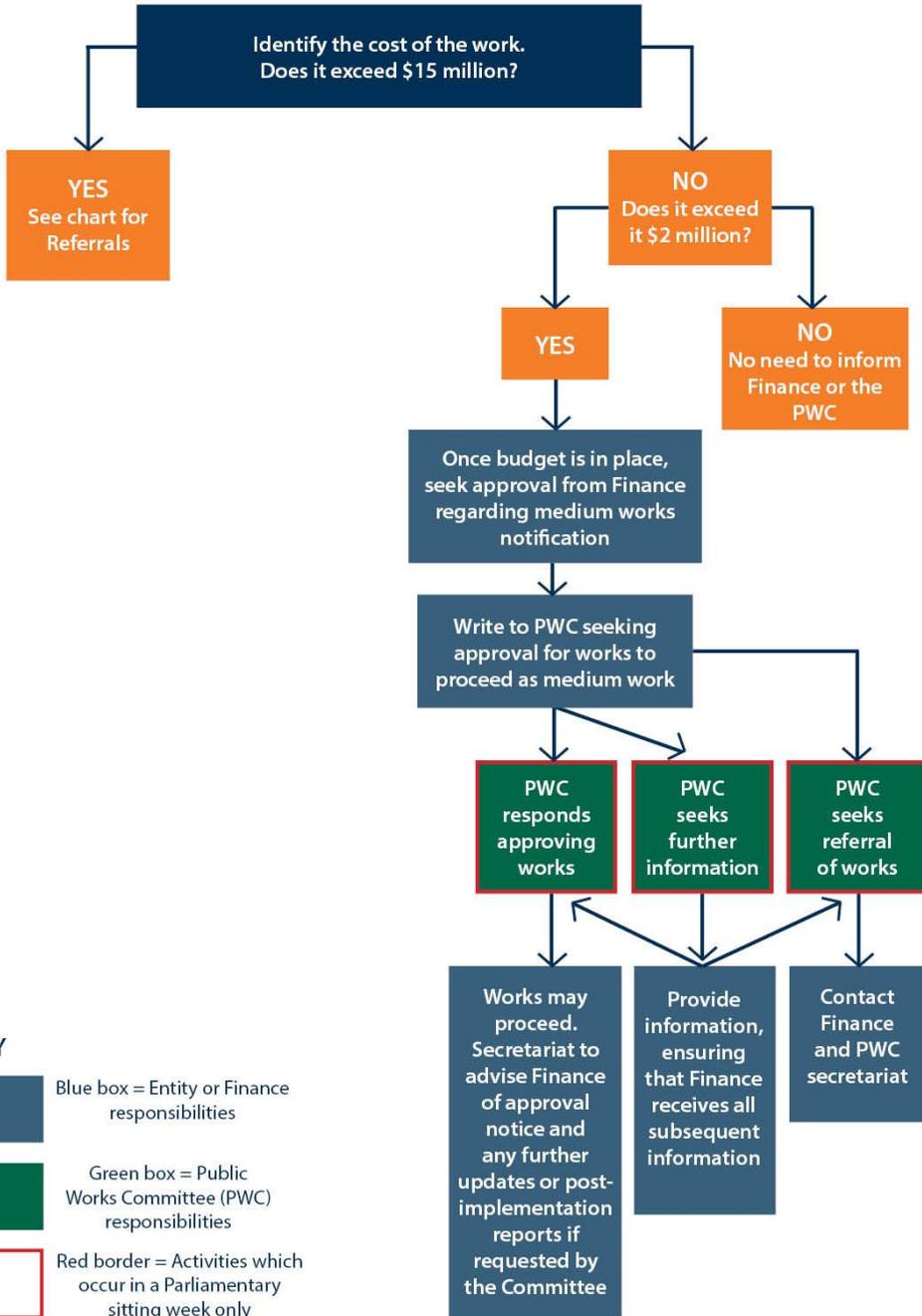
- Process put in place to ensure the Committee is informed about:
  - implementing recommendations;
  - project completion and review (post-implementation report).
- Process put in place to ensure the Committee's approval is sought for any significant changes to scope, time, cost, function or design.
- Process put in place to ensure that post-implementation reports are provided to the Committee on project completion.

## **Checklist for Committee process (medium works notifications)**

- Once project funding has been approved, entity to send medium work notification to the Committee, copying the notification and all subsequent correspondence to Finance.
- Secretariat to notify the entity and Finance of the outcome of the Committee's considerations, including any updates or post-implementation reports requested by the Committee or the intention to seek referral.
- Post-implementation reports are not required for medium works notifications, unless requested by the Committee.



## **Committee process flowchart – medium works notifications**



# Glossary

|                                |  |
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| Appropriation                  | Commonwealth entities are resourced with appropriations from the Consolidated Revenue Fund (CRF). The main two types of appropriations to authorise the spending of money from the CRF are annual appropriations and special appropriations.   |
| Commonwealth government entity | A non-corporate Commonwealth entity or a corporate Commonwealth entity under the <i>Public Governance, Performance and Accountability Act 2013</i> , further defined as a Department of State, a Parliamentary Department, a listed entity, or a body corporate established by a Commonwealth law or listed in the <i>Public Governance, Performance and Accountability Rule</i> . |
| Confidence level               | The probability that a project will be delivered within the total estimated cost. For example, a P80 confidence level would indicate an 80 per cent probability that the total estimated cost (base cost plus contingency) will not be exceeded.   |
| Contingent risk                | An assessment of, and allowance for, unmeasured items. These may include items such as weather, geotechnical problems, political issues, design/owner requirements and other similar unknowns.   |
| Cost-benefit analysis          | A method of economic evaluation for projects, programs or policies that measures benefits and costs  |

as far as possible in monetary terms. It differs from a financial appraisal or evaluation in that it considers all gains (benefits) and losses (costs), regardless to whom they accrue.

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| Cost estimate        | An approximation of the probable costs of a product, program or project, computed on the basis of available information. Cost estimates determined at different stages of project development will have varying levels of uncertainty. An indication of the accuracy of the cost estimate should be provided in the context of the stage of project development. |
| Fit-out              | The design and delivery of a building's interior partitioning, floor, ceiling mechanical, electrical and environmental components to meet the requirements of the its occupants (where the base building is the raw floor space bounded by walls but not specifically adapted to the requirements of its occupants). See paragraphs 2.34-2.38.                   |
| Escalation allowance | An allowance for the anticipated increase in the total project cost over time resulting from factors such as inflation, market conditions and the like   |
| Expediency motion    | Resolution made by Parliament that works, after being scrutinised by the Committee, may commence. Moved by the Minister for Finance or delegate. This, and the accompanying statement, is considered to be the government's response to the Committee's recommendation.  |
| Inherent risk        | As assessment of, and allowance for, risks contained within the components of the base estimate. These may include items such as uncertainty in the scope of work and its pricing, quantities or unit rates for items in the base estimate, or variance in the construction method.  |

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| Lease incentive            | Benefits offered by the lessor to induce another party to enter into, or renew, an operating lease. Examples include rent-free periods (or reduced rentals); upfront cash payment to the lessee (including the assumptions of costs); and capital incentives in the form of assumption of costs by the lessor (i.e. relocation costs, leasehold improvements, and costs associated with pre-existing lease commitments of the lessee). The Committee does not consider interest bearing loans as a lease incentive. |
| Medium work                | See definition under 'Public work'.   |
| Post-implementation report | Report to be submitted to the Committee three months after project completion. The report comprises both public and confidential information and is used to assess if the project remained within the advised scope, cost and timeframe. Once received by the Committee, the entire report is provided to the Department of Finance (Finance) for data collection and review.   |
| Project governance         | The system and structure to support the decision-making about a project. The governance framework outlines who has responsibility and authority to make decisions and ensures there is clearly defined accountability for all aspects of a project  |
| Proponent entity           | The organisation for whom the work is being undertaken or coordinated by.   |
| Public private partnership | A partnership between a government and an organisation in the public sector for the delivery of infrastructure and associated services traditionally provided by the government.  |
| Recommendation             | Requirements or endorsements (usually project-specific) included in reports of the Committee. Once agreed upon by the Committee, recommendations are sent to proponent entities. Until such time as the report  |

is tabled in Parliament, recommendations are under embargo, meaning they cannot be made public.

Referral motion

A referral motion is a motion that is moved in Parliament by the Minister for Finance or delegate to refer works to the Committee for inquiry.

Resource Management  
Guidance (RMG)

Guidance material created by Finance:

RMG 500 – Overview of the Commonwealth Property Management Framework

RMG 501 – Property Management Planning Guidance

RMG 502 – Guidance for the Two-Stage Capital Works Approval Process

RMG 503 – Whole-of-Life Costing for Australian Government Property Management

RMG 504 – Commonwealth Property Management Framework Lease Endorsement Process

RMG 505 – Funding arrangements for Commonwealth Property

RMG 506 – Flexible and Efficient Workplace Design Guidance; and

The Commonwealth National Lease Guidance Material.

RMG 106 - Guidance on the Assurance Reviews Process.

Guidance material can be found here:

<https://www.finance.gov.au/resource-management/index/#property>.

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| Public work         | <p>Architectural or engineering works undertaken for or by the Commonwealth. See Section 5 of the <i>Public Works Committee Act 1969</i> for full details.</p> <p>Where the estimated cost exceeds \$15 million, excluding GST unless GST is not recoverable, it is mandatory for works to be referred to the Public Works Committee for inquiry. Public works in this category, also known as referrals, are reviewed in accordance with the process outlined in Appendix A.</p> <p>Where the estimated cost is between \$2 million - \$15 million, excluding GST unless GST is not recoverable, the Committee must be notified of works in accordance with the medium works process outlined in Appendix A.</p> |
| Revenue             | <p>Money collected or received by an entity in return for providing a product or service.</p>   |
| Risk assessment     | <p>The process of risk identification, risk analysis and risk evaluation.</p>   |
| Risk estimation     | <p>An expression of duration, magnitude, intensity and reach of potential risk in monetary terms.</p>   |
| Risk management     | <p>A coordinated set of activities and methods used to control risks that can affect project outcomes.</p>  |
| Risk matrix         | <p>A tool used for analysing and displaying the level of risk for all identified risk based on likelihood and consequence. Information on mitigation strategies and parties responsible for monitoring and review should be included.</p>   |
| Whole-of-life costs | <p>An estimate of all expected costs over the lifetime of the relevant lease or property, including costs of acquisition, operation and maintenance.</p>  |

Whole-of-government      Indicates that cost-benefit analysis should consider the costs and benefits to the whole of the Australian Government rather than to individual entities.