

The Auditor-General  
Audit Report No.33 2007–08  
Performance Audit

# **The National Capital Authority's Management of National Assets**

**National Capital Authority**

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Canberra ACT  
15 May 2008

Dear Mr President  
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the National Capital Authority in accordance with the authority contained in the *Auditor-General Act 1997*. I present the report of this audit and the accompanying brochure to the Parliament. The report is titled *The National Capital Authority's Management of National Assets*.

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

Yours sincerely

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

Ian McPhee  
Auditor-General

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

## AUDITING FOR AUSTRALIA

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

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# Contents

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<b>Summary and Recommendations .....</b>	<b>7</b>
<b>Summary .....</b>	<b>9</b>
Introduction .....	9
Audit objective and scope .....	9
Audit conclusions .....	10
Key Findings .....	11
Improvement opportunities .....	14
Agency responses.....	14
<b>Recommendations .....</b>	<b>16</b>
<b>Audit Findings and Conclusions .....</b>	<b>19</b>
<b>1. Introduction .....</b>	<b>21</b>
Background .....	21
What is asset management? .....	22
Audit approach .....	24
<b>2. The NCA's Asset Management Framework and Asset Management System .....</b>	<b>26</b>
The NCA's Asset Management Framework .....	26
The NCA's Asset Management System.....	29
The NCA's acquisition of an Asset Management System .....	31
<b>3. Asset Maintenance.....</b>	<b>39</b>
Introduction .....	39
Commonwealth/Kings Park Open Space Maintenance contract.....	40
Scrivener Dam Facility Management.....	52
<b>4. Diplomatic Leases .....</b>	<b>69</b>
Background .....	69
Origins of arrangements relating to diplomatic land .....	69
The Diplomatic Leasing Review.....	73
<b>Appendices .....</b>	<b>79</b>
<b>Appendix 1: Formal Agency Responses .....</b>	<b>81</b>
NCA response .....	81
DFAT response .....	86
<b>Series Titles.....</b>	<b>87</b>
<b>Current Better Practice Guides .....</b>	<b>90</b>

## Tables

Table 1.1	NCA Asset types and value as at 30 June 2006 .....	22
Table 2.1	AMS – identifiable costs 1997–2007 .....	36
Table 3.1	NCA maintenance contracts.....	39
Table 3.2	Performance reporting required of contractor .....	42
Table 3.3	Commonwealth and Kings Park Open Space Maintenance contract – overpayments and undercharging.....	48
Table 3.4	Scrivener Dam electrical upgrade–status.....	58
Table 3.5	Asset Management Plan–priorities.....	60
Table 3.6	Scrivener Dam Asset Management Plan current status–Priority 1 tasks .....	62
Table 3.7	Flap gate hinges – extracts from ActewAGL reports.....	65

## Figures

Figure 1.1	Typical asset life cycle.....	23
Figure 2.1	NCA’s Asset Management Framework .....	27
Figure 2.2	Components of an advanced asset management system .....	30
Figure 3.1	First Open Space Maintenance contract: completion provisions .....	50
Figure 3.2	Scrivener Dam Asset Management Plan current status – Priority 1, 2 and 3 tasks .....	63
Figure 3.3	Location of flap gate hinges.....	64
Figure 3.4	Scrivener Dam flap gate hinge .....	66
Figure 4.1	Diplomatic Leasing Review–recommendations 1 to 6 .....	75

# **Summary and Recommendations**





# Summary

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## Introduction

1. The National Capital Authority (NCA) was established in 1989<sup>1</sup> following the introduction of self-government in the Australian Capital Authority (ACT). Its vision is 'A National Capital which symbolises Australia's heritage, values and aspirations, is internationally recognised and worthy of pride by Australians'.

2. The NCA's functions are set out in the *Australian Capital Territory (Planning and Land Management) Act 1988* (the PALM Act). For the purposes of its reporting to Parliament, the NCA has three Outputs against which its performance is measured:

- Output 1: Canberra and the ACT are planned and developed in accordance with their national significance;
- Output 2: Promotion and awareness strategies, projects and services for the National Capital; and
- Output 3: Asset and land management and capital enhancement services.

3. While the NCA has control over all development in 'Designated Areas'<sup>2</sup> and can approve or reject individual proposals for works in those areas, it does not have direct responsibility for the construction and maintenance of all the buildings and assets contained in the Areas. Generally speaking, the assets for which the NCA has sole responsibility can be described as non-building assets (such as parklands) and non-office buildings (such as the National Carillon and Blundell's Cottage).

## Audit objective and scope

4. The objective of the audit was to assess the effectiveness of the NCA's management of its asset portfolio. This included examining its asset management systems and the management of selected contracts that the NCA has in place to maintain specific assets.

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<sup>1</sup> The agency was known as the National Capital Planning Authority between 1989 and 1999. For the purpose of this report, it is referred to by its current name.

<sup>2</sup> The 'Designated Areas' are defined in the PALM Act to be the Central National Area (which includes the Parliamentary Zone and Lake Burley Griffin), the Inner Hills and Main Avenues and Approach Roads.

5. An audit of the 'administration, efficiency and effectiveness of the operation of the National Capital Authority' had been suggested to the ANAO by the Parliamentary Joint Committee on the National Capital and External Territories. The NCA's management of national assets was selected as the subject in order to contain the focus of the audit and to produce a timely report. In March 2008, the Joint Standing Committee on the National Capital and External Territories announced an inquiry into the role of the National Capital Authority in the planning, development and promotion of the national capital. The Committee has been asked to report by 30 June 2008.

## Audit conclusions

6. The national assets for which the NCA is responsible include some of the National Capital's most significant national and cultural landscapes and attractions, including Lake Burley Griffin, Anzac Parade and a large number of memorials. The value of the national assets as at June 2007 was \$456 million<sup>3</sup>. Although requiring review and update, the NCA has generally appropriate asset management policies and a documented asset management framework.

7. The need for the NCA to develop new national assets (rather than operating and maintaining existing ones) occurs relatively infrequently. The ANAO's examination of the NCA's recent development of a major memorial, the National Police Memorial, indicated that the NCA delivered the required outcome on time and within budget, indicating that its asset development practices are to an appropriate standard.

8. The NCA outsources the maintenance of most of the national assets under its control and, in this context, there have been significant deficiencies in the NCA's maintenance of national assets. This is partly due to the absence of a functional asset management system<sup>4</sup> to inform decision making, and to inadequacies in the management of maintenance contracts. This audit highlights the need for stronger governance arrangements in relation to both asset maintenance and contract management.

9. An additional element of the NCA's asset management task is its administration of diplomatic leases. There is a long-standing administrative practice of offering foreign countries wishing to establish an embassy or high commission in Canberra a choice between paying once, up-front for a lease, or

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<sup>3</sup> National Capital Authority, Annual Report 2006–07, November 2007, p. 17

<sup>4</sup> Whilst a proprietary system was purchased in 1998, little of its functionality has been used.

paying rent each year. This practice has evolved over many years and it has not been endorsed by government. A 1993 review, commissioned by the NCA but not presented to the then government, concluded that this approach leads to a significant differential in financial terms between the two alternative options. In the light of this differential, there would be benefit in the NCA, in conjunction with other relevant agencies, reviewing the current approach with a view to allowing the government to establish its preferred position with respect to any new diplomatic leases which balances achieving a return on diplomatic leases with its broader foreign policy objectives.

## Key Findings

### **Asset management framework and asset management system (Chapter 2)**

10. In order to effectively manage its assets, an agency needs to have both an asset management framework and an asset management system.

11. An asset management framework should integrate with an organisation's broader corporate plans and strategies and assist in planning expenditure on creating new assets, on the repair and replacement of existing assets and on their operation. The NCA did not commence development of an integrated asset management framework until 1998, some six years after it was established. The framework, which includes an asset policy, an asset management strategy, an asset management plan and a capital management plan, was not up to date at the time of the audit.

12. An asset management system is the practical expression of the asset management framework. At its simplest level, an asset management system includes a listing of all of an organisation's assets and their location. Modern, computerised asset management systems allow organisations to effectively manage the operation and maintenance of their assets. They also support strategic decision making on issues such as replacement of an asset rather than continuing to maintain an asset beyond the end of its useful life.

13. As outlined in Chapter 2, the NCA does not have a functional computerised asset management system. The NCA purchased a proprietary asset management system in 1998 at an initial cost of \$800 000 but, despite the expenditure of a further \$600 000, the system has never achieved its full functionality. Work is required to implement a fully functioning assessment management system. In this context, the NCA has advised the ANAO that it would be appropriate for it to review the range of systems that are available.

## **Maintenance of national assets (Chapter 3)**

14. Since its establishment in 1989, the NCA has outsourced the maintenance of the national assets under its control. In this context, the ANAO examined the NCA's administration of two of the large maintenance contracts in order to assess whether these arrangements represent value for money as required by the Commonwealth Procurement Guidelines.

15. In the case of the Open Space Maintenance contract for Commonwealth and Kings Park, the NCA had not effectively managed the performance of the contractor. In addition, on a number of occasions it overpaid the contractor and also did not collect the rent for a depot in Commonwealth Park owned by the NCA, and used by the contractor. The financial consequences of these deficiencies totalled more than \$300 000. The NCA has instituted recovery action.

16. In the case of the facility management contract for Scrivener Dam, the NCA had allocated sufficient funds for minor and routine maintenance, but has not funded a number of major, non-routine maintenance tasks that the NCA's expert consultants had recommended be carried out. Specifically:

- in 1998, a consultant engaged by the NCA recommended 28 projects that it considered necessary for the dam's electrical system. The NCA originally scheduled these works to be completed in a two year program commencing in 2003. It has subsequently twice rescheduled the works such that, on the present schedule, the works will not be completed until November 2009;
- when the facility management contractor was engaged in 2000, it recommended a number of non-routine works that it believed needed to be undertaken. It resubmitted its recommendations in 2001 and 2002 and wrote to the CEO of the NCA in October 2002 to express concern at the delay in approving the works that it considered 'critical'. The first of these works was approved by the NCA in November 2002; and
- in 2000, another firm of consultants recommended a number of other projects, including 26 that it considered 'necessary to be done in the short term (1 – 2 years)' which were 'important for Dam operation and safety, surveillance, OH&S, environment'. As at February 2008, seven of the 26 projects (27 per cent) had been completed.

17. This situation emphasises the importance of the NCA establishing funding priorities to bring the dam to an acceptable standard having regard to

recommendations by the firms contracted to advise on the condition of the dam and its maintenance. It also highlights the need for improved governance arrangements to ensure that any identified shortcomings in the condition of national assets are brought to attention and addressed in a timely manner.

18. In April 2008, the NCA advised the ANAO that it is currently facing challenges in relation to the financial sustainability of its operations in the context of its asset management responsibilities. It further advised that there has been a decrease in real funding of more than 20 per cent over the past five years despite increases in the number and diversity of assets maintained by NCA.

### **Diplomatic leases (Chapter 4)**

19. The NCA administers leases issued to foreign diplomatic missions represented in Canberra. With a 1 January 2006 value of \$109 million, diplomatic land is the most valuable asset for which the NCA is responsible.

20. There is no established Government approach to guide the NCA in its administration of these leases. Rather, administrative arrangements have evolved over time, with their roots in decisions made in the 1930s. As a consequence, some foreign diplomatic missions have been allowed to 'purchase' a 99 year lease for the payment of an amount equivalent to one year's Unimproved Capital Value of the block in question, while others have opted to pay annual rent. As an indication of the differential in the two options, if all foreign missions had been required to pay rent on an annual basis, the Australian Government would have collected approximately \$385 million more in revenue than it will have over the 99 year terms of the leases.

21. The NCA commissioned a review of diplomatic leasing in 1993 which highlighted this situation and which recommended that allowing foreign countries to 'purchase' their leases be discontinued. However, the review, which could have resulted in the development of a considered, 'whole of government' approach to guide the NCA, was not finalised. The ANAO has recommended that the NCA should liaise with the Department of Finance and Deregulation (Finance) and the Department of Foreign Affairs and Trade (DFAT) with a view to providing advice to government on the best approach which balances both revenue and foreign policy considerations.

## Improvement opportunities

22. The ANAO has made five recommendations. Four of those recommendations are aimed at addressing deficiencies in specific administrative areas, such as the need for the NCA to ensure that its asset management framework is brought up to date. The remaining recommendation – Recommendation No.4 – is directed at the NCA accelerating the timeframe in which action will be taken to address the Scrivener Dam management and maintenance issues raised by its expert consultants.

## Agency responses

23. The NCA agreed with three of the audit recommendations and agreed with qualification with the remainder. One recommendation – Recommendation No. 5 relating to diplomatic leasing arrangements – affected agencies in addition to the NCA. Finance agreed to the recommendation and DFAT agreed with qualification.

24. The full responses of the NCA and DFAT to the audit are provided at Appendix 1. Finance did not provide any further comments beyond agreeing to Recommendation No. 5. The NCA and DFAT also provided a summary of their comments as follows.

### NCA

The NCA agrees with all five recommendations in the report as they provide a constructive basis for improving the NCA's overall asset management framework, particularly in relation to its asset management system, internal controls and contract management procedures.

The NCA has started to implement those recommendations in the report that can be met within existing resources. The NCA will be replacing its existing asset management system. The NCA has signed an agreement with a new provider with the new system to be implemented by December 2008. The new system will have a direct interface with other key business systems, will automate some administrative workflows and improve both operational management and internal control in respect of contract management.

With respect to the comments in the report related to the maintenance of national assets (Scrivener Dam), the NCA has been advised in the most recent (April 2008) independent Dam inspection report that the Dam 'has been maintained and operated satisfactorily' and 'The NCA's Forward works

program has been reviewed and considered appropriate and satisfactory for ensuring on-going improvements and safety necessary for the dam'.<sup>5</sup>

The full and timely implementation of the recommendations will be subject to the availability of financial and management resources, prioritisation of maintenance needs throughout the estate and the overall level of risk. Public safety and asset protection will continue to be the primary considerations in NCA decisions related to the management of administered assets.

## *DFAT*

DFAT notes the conclusions of the Report that practices relating to the leasing of land for diplomatic purposes have evolved over time and have not been formally endorsed by government. DFAT shares the view that there would be benefit in developing options for government consideration in order for it to establish a preferred position for future management of the diplomatic estate.

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<sup>5</sup> Further detail on the most recent Dam inspection report are included at paragraphs 3.75 and 3.76 of this audit report.

# Recommendations

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**Recommendation No.1** The ANAO *recommends* that the NCA take steps to bring its asset management framework up to date.

**Paragraph 2.10** **Agency response:** Agreed with qualification

**Recommendation No.2** The ANAO *recommends* that the NCA support its documented asset management framework by taking timely steps to implement a system that enables it to effectively manage the operation and maintenance of the national assets.

**Paragraph 2.36**

**Agency response:** Agreed

**Recommendation No.3** The ANAO *recommends* that the NCA improve its contractual arrangements for maintenance of national assets by:

**Paragraph 3.39**

- (a) adopting more rigorous and consistent practices for monitoring contractor performance and addressing any shortcomings;
- (b) emphasising to contract managers the importance of following procedures for contract completion as set out in contracts; and
- (c) implementing stronger controls over the checking and certification of contractor invoices.

**Agency response:** Agreed

**Recommendation No.4** The ANAO *recommends* that the NCA pursue avenues to accelerate the timeframe in which action will be taken to fund priority asset maintenance works identified by its expert consultants and accepted by the NCA as being necessary.

**Paragraph 3.77**

**Agency response:** Agreed with qualification



**Recommendation  
No.5****Paragraph 4.26**

The ANAO *recommends* that the NCA, in consultation with the Department of Finance and Deregulation and the Department of Foreign Affairs and Trade, develop options for consideration by government in relation to diplomatic leases that balance both revenue and foreign policy considerations.

**Agency response:** NCA and Finance agreed to the recommendation and DFAT agreed with qualification.



# **Audit Findings and Conclusions**



# 1. Introduction

---

*This chapter outlines the functions of the National Capital Authority and the national assets for which it is responsible. It also describes the general principles of asset management and the audit objectives and approach.*

## Background

**1.1** The National Capital Authority (NCA) was established in 1989 as a result of the introduction of self-government in the Australian Capital Territory. The functions of the NCA are set out in the *Australian Capital Territory (Planning and Land Management) Act 1988* (the PALM Act) and are as follows:

- (a) to prepare and administer a National Capital Plan;
- (b) to keep the Plan under constant review and to propose amendments to it when necessary;
- (c) on behalf of the Commonwealth, to commission works to be carried out in Designated Areas in accordance with the Plan where neither a Department of State of the Commonwealth nor any Commonwealth Authority has the responsibility to commission those works;
- (d) to recommend to the Minister the carrying out of works that it considers desirable to maintain or enhance the character of the National Capital;
- (e) to foster an awareness of Canberra as the National Capital;
- (f) with the approval of the Minister, to perform planning services for any person or body, whether within Australia or overseas; and
- (g) with the Minister's approval, on behalf of the Commonwealth, to manage National Land designated in writing by the Minister as land required for the special purposes of Canberra as the National Capital.

**1.2** The 'Designated Areas' referred to at (c) above are defined as the Central National Area<sup>6</sup>, the Inner Hills and Main Avenues and Approach Roads. The PALM Act provides that any works carried out in a Designated Area must be approved by the NCA. 'Works' includes the construction,

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<sup>6</sup> The Central National Area includes the Parliamentary Zone and its setting, Lake Burley Griffin and Foreshores, the Australian National University, the Australian Defence Force Academy, Duntroon, Campbell Park and Canberra Airport/RAAF Base Fairbairn.

alteration or extension of buildings or structures, landscaping, tree-felling and excavation but excludes anything done inside buildings or structures. While the NCA has control over all development in Designated Areas and can approve or reject individual proposals for works in those areas, it does not have direct responsibility for the construction and maintenance of all the buildings and assets contained in the Areas. Table 1.1 below shows the various types and values of assets for which the NCA is responsible.

**Table 1.1**

**NCA Asset types and value as at 30 June 2006**

NCA CATEGORY	TYPES OF ASSETS	VALUE (\$ million)
Facilities	Diplomatic and other land	208.7
Bridges	Commonwealth Avenue, Kings Avenue and Scrivener Dam Bridges and other minor bridges	66.2
Appurtenance	Fountains, memorials, sculptures and associated minor infrastructure (such as water bubblers)	35.5
Equipment	Structures, including Blundell's Cottage and the Carillon	32.7
Street segments	Roads in Designated Areas	23.4
Footpaths	Footpaths, bike paths and building forecourts	15.8
Plant miscellaneous	Lake Walls, jetties	9.5
Lights	Street and other lighting	9.1
Stormwater	Stormwater infrastructure	4.3
Landscape	Landscaping at Anzac Parade, Commonwealth Place and Old Parliament House	2.0
Street and other signage	Street and other signage in Designated Areas	0.6
Traffic signals	Traffic signals in Designated Areas	0.4
-	Inventory and work in progress	6.2
TOTAL		414.4

Source: National Capital Authority

## What is asset management?

**1.3** Effective management of assets is a responsibility for all organisations, whether they are large or small. There are many definitions of what asset management is, depending on the types of assets being managed (which might be as diverse as intellectual property, computer software and hardware or, as

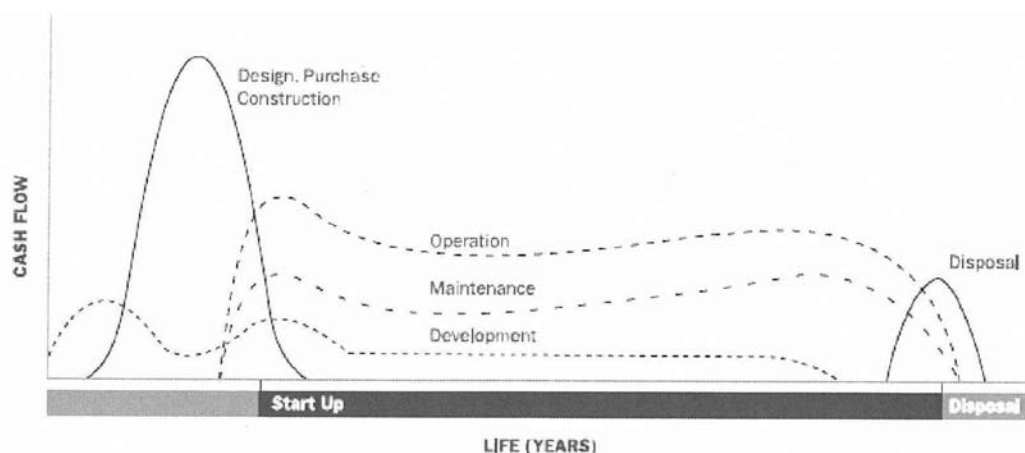
in this case, physical assets). We have adopted the following definition for the purposes of this report:

Asset management is a systematic, structured process covering the whole life of an asset. The underlying assumption is that assets exist to support service delivery.<sup>7</sup>

**1.4** Asset management has become an increasingly sophisticated discipline which aims to track and optimise expenditure on assets over their entire life. Figure 1.1 shows a typical asset life cycle and the expenditure at various stages of the life cycle. The diagram is not drawn to a consistent time scale: the middle operational period is generally much longer than shown in the diagram.

**Figure 1.1**

### Typical asset life cycle



Source: ANAO, *Life-Cycle Costing Better Practice Guide*, December 2001

**1.5** Decisions taken about an asset in one phase of its life cycle can affect its performance in other phases. For example, seeking minimum capital costs in the initial acquisition phase can lead to higher operating and maintenance costs in later phases. Conversely, careful management and timely maintenance of assets can extend their effective life and avoid or defer the need for replacement. Good asset management also helps to identify when assets have reached critical stages in their life: for example, it can help to identify the point at which it becomes uneconomical to continue to maintain or repair an asset, as opposed to replacing it.

<sup>7</sup> ANAO, *Asset Management Handbook*, June 1996, p. 2.

**1.6** In earlier audits on asset management, the ANAO developed a number of asset management principles, as follows:

- asset management decisions are integrated with strategic planning;
- an effective governance structure, including policies, systems of internal control and reporting, is established for asset management;
- asset planning decisions are based on an evaluation of alternatives which consider the 'life-cycle' costs, benefits and risks of ownership;
- disposal decisions are based on analysis of the methods which achieve the best available net return within a framework of fair trading; and
- accountability is established for asset use, condition and performance.

**1.7** In order to satisfy these principles, agencies need to have both an **asset management framework** which places asset management in the broader organisational context and an **asset management system** which gives practical effect to the requirements for control of, and accountability for, assets. The NCA's asset management framework and its asset management system are discussed in Chapter 2.

## Audit approach

**1.8** The audit's objective was to assess the NCA's development, management and maintenance of the national assets it administers. In order to meet the audit objectives, the ANAO:

- reviewed the NCA's strategic asset management framework and its linkages to other corporate plans and strategies;
- examined the NCA's acquisition of an asset management system; and
- assessed the adequacy of the NCA's maintenance of national assets by examining selected contracts under which maintenance is carried out.

**1.9** The need for the NCA to develop new national assets occurs relatively infrequently. Accordingly, audit examination focused on the operation and maintenance of existing assets. ANAO did, nonetheless, examine the NCA's development of a recent major memorial, the National Police Memorial. The Memorial's design was as a result of a competition and the NCA managed its development. The ANAO's examination showed that the Memorial was completed on time in September 2006 and within budget (\$2.4 million). It has subsequently won two prestigious architectural awards.



**1.10** The audit commenced in February 2007. It was conducted under Section 18 of the *Auditor-General Act 1997* in accordance with the ANAO Auditing Standards at a cost of \$490 000.

## 2. The NCA's Asset Management Framework and Asset Management System

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*This Chapter examines the NCA's asset management framework and its asset management system.*

### The NCA's Asset Management Framework

**2.1** As outlined in Chapter 1, in order to meet the general principles of asset management, agencies should have both an asset management framework and an asset management system.

**2.2** Although the NCA was established in 1989, it did not commence development of an Asset Management Strategy until 1998. A draft Asset Management Strategy was submitted for comment to the Authority meeting of 29 September 1999 with the following introduction:

The new financial system<sup>8</sup> requires the Authority to plan and be more accountable for its pattern of expenditure. To successfully achieve this the Authority requires a framework for decisions that will assist in planning expenditure on creating new assets, on the repair and replacement of existing assets and on their operation – an Asset Management Strategy.

For the strategy to be useful it must guide both strategic and operational decisions and it must integrate with the Authority's Corporate, Business and Action plans. It is intended that the document would be a reference manual for the Authority, officers of the National Capital Authority and agents or contractors associated with the delivery of asset management.

As it will be a working document it is intended that it will be produced in ring binders, allowing for the relevant sections to be updated as the operating environment changes.

**2.3** The Authority agreed with the general approach of the Strategy and requested some minor amendments.

**2.4** The NCA's 2002–03 Annual Report stated that the Strategy was reviewed in 2003 and would be considered by the Authority in 2003.<sup>9</sup>

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<sup>8</sup> This refers to the transition from cash accounting to accrual accounting for Australian Government agencies which occurred in 1999–2000.

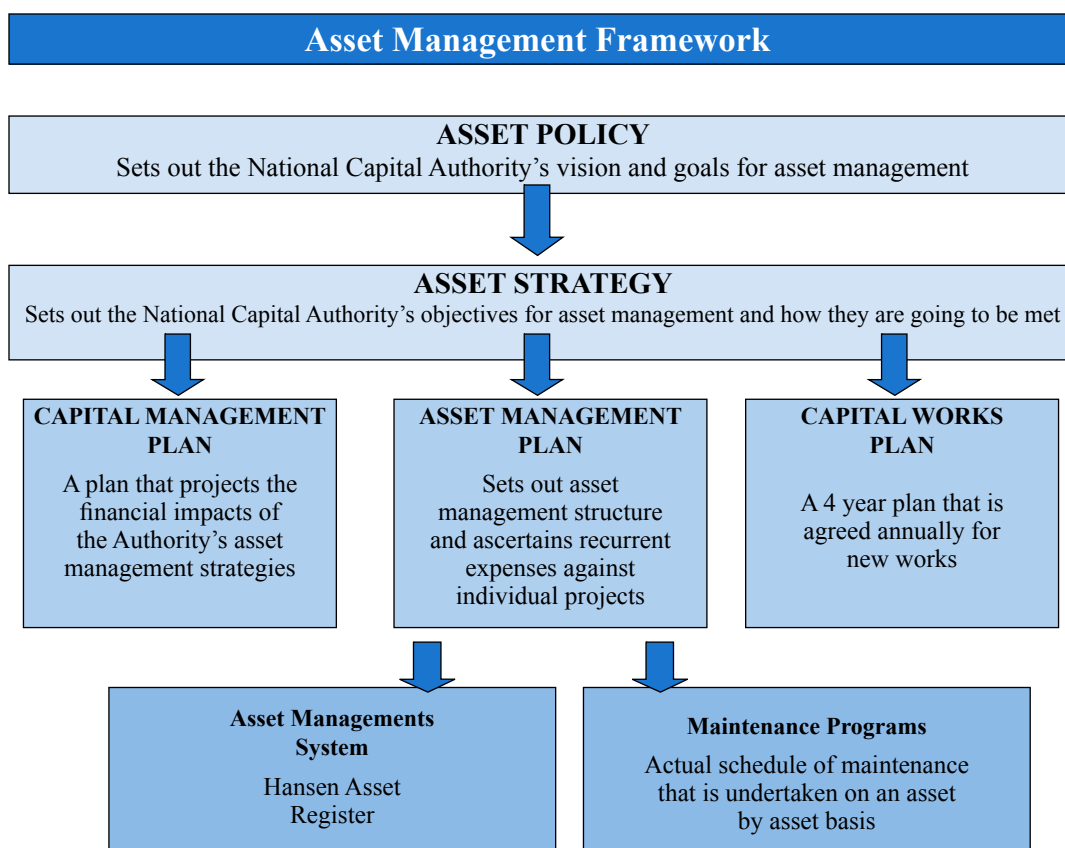
<sup>9</sup> National Capital Authority, Annual Report 2002–03, October 2003, p. 20.

**2.5** However, the NCA advised the ANAO in October 2007 that this review did not happen until 2004. Specifically, on 24 February 2004, the NCA's Management Committee was advised that the Asset Management Strategy had been reviewed and that 'the Asset Management Plan will be developed from the reviewed strategy and should be completed by June 2004'. However, NCA records did not include either the reviewed Strategy or the Plan, although there was a reference in a May 2006 document to the development of the Asset Management Plan for the National Domain being deferred.

**2.6** At the commencement of fieldwork, the NCA provided the ANAO with a document describing its asset management framework. This document is reproduced at Figure 2.1.

**Figure 2.1**

### **NCA's Asset Management Framework**



Source: National Capital Authority, Capital Management Plan, 2004–06

**2.7** The ANAO reviewed each component of the asset management framework and concluded that, in terms of their content, the objectives and principles they contain are appropriate and effectively articulate the key considerations for management of the assets for which the NCA is responsible. However, neither the Capital Management Plan nor the Asset Management Plan are up to date.

**2.8** The NCA's files show that in early 2006, the NCA had discussions with a firm of consultants about the need to review the asset management framework and the consultants prepared a report outlining how this task should be progressed. The consultants' report identified a number of areas where the existing asset management plan needed improvement:

The assessment of data provided for the development of the draft Asset Management Plan noted the following issues to be considered:

- not all reports on the assets provided by the contractors included costs for future works, eg electrical lighting only has yearly preventive maintenance and repairs, paths only has works identified for next two years;
- only single actions, eg repair or replace, have been included in the list of recommendations and not all cyclical recommended works for each type of assets have been identified, eg those actions which should be repeated 5 yearly, 10 yearly, etc;
- it is unclear whether the NCA has data or reports for all types of assets. Data available at the time of preparing the draft Asset Management Plan did not include all asset types; and
- the infrastructure assets appear to have been monitored and reported on in a totally different manner compared to other types of assets. Significant changes to this reporting format needs to be adopted for the development of this Asset Management Plan.

**2.9** The consultants' existing commitments prevented it from undertaking the necessary work and the NCA did not otherwise commence the process of updating its asset management framework.

## **Recommendation No.1**

**2.10** The ANAO *recommends* that the NCA take steps to bring its asset management framework up to date.

## *Agency response*

**2.11** The NCA agreed to the recommendation with the qualification that its implementation is subject to the availability of funding. The NCA also advised ANAO that:

In September 2007, the NCA engaged a consultant to review and update the Asset Management Plan as the first stage of an overall review of its asset management framework. The review of the Asset Management Plan was to be completed in late January 2008 but work ceased as part of implementing recent savings measures required by Government.

The NCA's Capital Works Program for the 2007–08 financial year was updated in January 2008.

Due to ongoing financial constraints and other statutory responsibilities the NCA is unable to commit to a date when it will be in a position to complete the update of all of the documentation associated with its asset management framework.

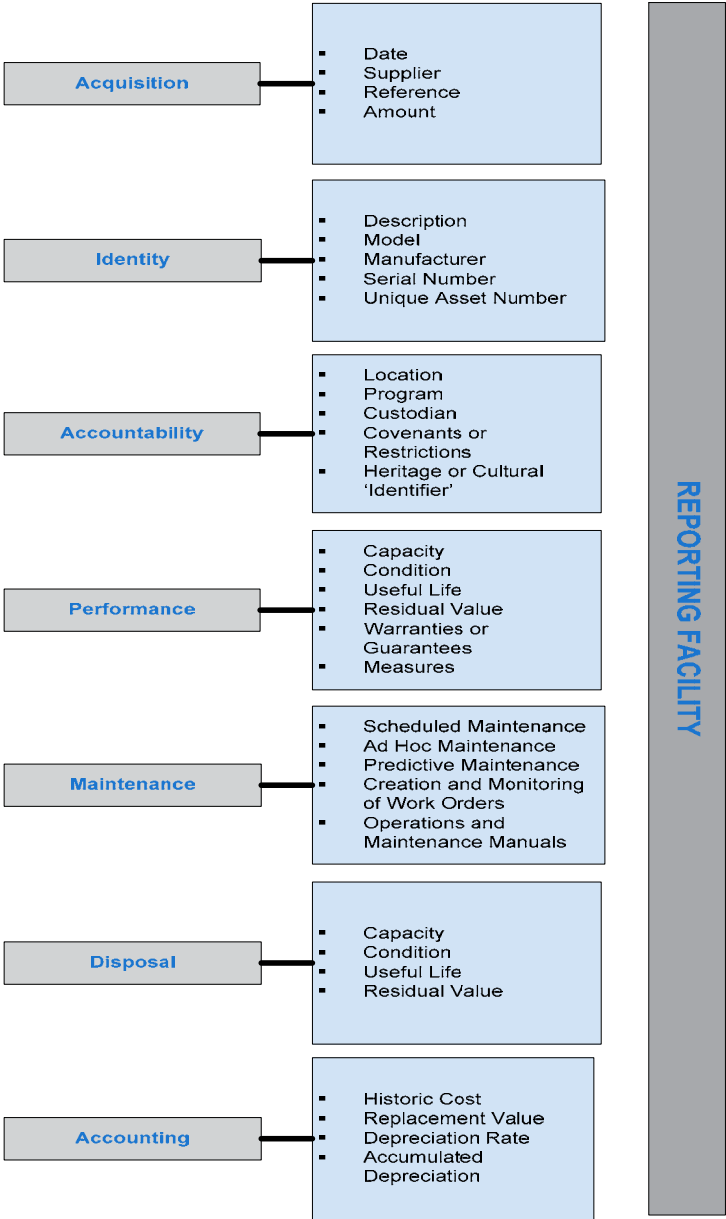
## **The NCA's Asset Management System**

**2.12** Computer-based asset management systems have existed since the 1980s. The most basic requirement for an organisation with asset management responsibilities is to know what and where the assets are. Such a record is known as an asset register and while early asset management systems were little more than an asset register, they have become increasingly sophisticated over time and there are now a wide range of proprietary 'off the shelf' software packages available.

**2.13** The selection of an asset management system clearly depends on the nature of the asset base: if an organisation has a relatively simple asset base (such as office machines and furniture), it only needs a simple asset management system. However, for an organisation like the NCA, which has a large number of geographically dispersed assets, some of high value and of significantly differing operation and maintenance needs, a more sophisticated system is appropriate.

**2.14** Figure 2.2 shows the components of a relatively advanced asset management system.

**Figure 2.2**  
**Components of an advanced asset management system**



Source: ANAO, *Asset Management Handbook*, June 1996, p26 (amended)

**2.15** The use of an effective asset management system has a number of benefits, including:

- all assets can be fully documented and values recorded;
- analysis of maintenance activity over time, together with regular assessment of the condition of assets, allows development of a 'predictive' or 'preventive' maintenance approach where assets are maintained in working order before becoming defective;
- maintenance can be scheduled so that a number of assets in one area are attended to at one time, saving time and money;
- maintenance tasks can be more effectively prioritised;
- work orders can be issued electronically and progress against them effectively monitored; and
- depreciation of assets can be readily calculated.

## **The NCA's acquisition of an Asset Management System**

**2.16** The NCA became responsible for the national assets in 1992. It was quickly recognised that existing data about the assets was inadequate and that some form of asset management system should be implemented. A February 1993 paper to the Authority's Land Management Committee, entitled 'Proposal for development of NCA asset management system' stated:

The effective management of assets requires an appropriate asset management system. The NCA has started the development of an asset management system with the production of the asset database. The next stage is to develop the necessary system that provides the level of support appropriate to the NCA needs.

**2.17** The paper then went on to propose an in-house development of a prototype system using off the shelf software. The file does not record whether or not the proposal was approved, although the proposal is referred to in a minute to the Acting Chief Executive Officer (CEO) in March 1995. That minute stated:

The current operation of Land Management in NCA necessarily concentrates on the Operational Maintenance aspects of asset management – there is no opportunity to exercise more than a little discretion in continuing to maintain our assets on a daily basis in the field. This has been the focus of Land Management in the NCA since taking over the function, largely because of the complete lack of records relating to the operation of the various programs as

they were being run at the time. It has become clear to managers responsible for the programs that this approach is not sustainable in the long term, and that a more strategic process is required to adequately meet the responsibilities of this function.

**2.18** The minute also stated:

It is relevant to note also, that in the findings of the Australian National Audit Office in their audit of the NCA's 1993/94 financial accounts, the Authority was subject to specific criticism for not having progressed with the development of an asset management system. With the current financial year well into its latter stages positive action must be taken to ensure that progress can be demonstrated before the next external audit.

**2.19** The minute to the Acting CEO proposed the engagement of a consultant to develop a strategy for a prototype computerised land management system. The file copy of the minute does not give any indication of whether the proposal was agreed or not.

**2.20** More than two years later, in September 1997, the NCA invited proposals from a number of companies to 'assist it prepare detailed user requirements for a new asset management system' and to recommend a suitable software product. The invitation set out in some detail the broad functions that the NCA required of any recommended system.

**2.21** In October 1997, the NCA wrote to the successful proponent, accepting its proposal for a lump sum upper limit of \$47 000. In July 1998, the successful proponent provided the NCA with a list of seven products and suppliers that it believed met the NCA's requirements.

**2.22** The NCA then engaged a consultant to assist it to prepare a detailed Request for Proposal (RFP) to the seven suppliers identified as a result of the process referred to at paragraph 2.21, to assist with the evaluation of tenders received and to work with the NCA to implement the chosen system. The initial approved upper limit for this consultant was \$78 000, although this was extended several times to in excess of \$200 000.

**2.23** In August 1998, the NCA issued the RFP to six of the seven recommended suppliers. The RFP was a comprehensive document, running to some 150 pages. Three tenders were received by the closing date of 28 September 1998. The tenders were then evaluated by a Tender Evaluation Committee. On 30 November 1998, the NCA's Tender Board considered the report of the Tender Evaluation Committee and accepted its recommendation



that a particular Asset Management System (AMS) be implemented at a stated cost over five years of \$823 019.

**2.24** The report to the Tender Board noted that the AMS possessed a number of capabilities which would allow the NCA to meet its asset management obligations, including the undertaking it had given to the ANAO following the 1993–94 financial statements audit in relation to the acquisition of an asset management system. The report said that the AMS would:

- be the NCA's formal asset register;
- allow the allocation of all expenditure to individual assets which would improve the accuracy and flexibility of asset expenditure reporting;
- be able to perform the calculation of depreciation for NCA assets;
- enable the projection of scheduled maintenance expenditure;
- enable the collection, storage and retrieval of a range of information about the NCA's assets, such as asset condition, allowing maintenance activity to be efficiently planned and scheduled;
- improve the NCA's ability to report on asset utilisation and performance in meeting objectives;
- allow operational information (such as maintenance manuals) to be 'attached' to individual assets in the system;
- allow a wide variety of management reports to be easily generated;
- allow the creation of work orders, linked to the Financial Management Information System which would also allow asset condition information to be updated when work is done; and
- help reduce maintenance experience by optimising and rationalising required work.

**2.25** In summary, the report concluded:

There are obvious benefits from implementing the Asset System, especially in terms of resource savings, improved decision making, and satisfying external reporting and regulatory obligations.

**2.26** The report also noted that at that time, there were nine current users of the AMS in Australia and more than 60 in New Zealand.<sup>10</sup>

**2.27** A substantial amount of work was undertaken throughout 1999 both to implement the AMS and to collect and enter asset data into it. Notes on NCA files state that the system ‘went live’ in September 1999. However, over the next few years, the files show that the NCA experienced a number of difficulties with the AMS, including problems with the way that the system calculated depreciation and problems with linking the AMS to the NCA’s financial management information system (FMIS).

**2.28** In September 2004, the NCA engaged a firm of consultants in an attempt to address the difficulties it was having in implementing the AMS. The consultants presented a draft report to the NCA on 9 February 2005. In relation to the AMS, the report made the following findings:

- The *[name]* software application has the required functionality to support AM [asset management] at the Authority;
- There is little understanding of what the system is and how it can be used as a tool to assist with asset management;
- The system is currently only being utilised by one person at the Authority and this person has had no formal training in the system’s use;
- The Authority is currently paying for the maintenance of 40 licences at a cost of approximately \$38 000 per annum;
- There are no resources at the Authority that have the skills to manage the system;
- The quality of the data (accuracy and completeness) is questionable as numerous Authority staff have input data since its implementation in 1999 with little or no quality control;
- There is a lack of documented procedures and standards that match the current system configuration;
- Navigation of the system could be greatly improved by linking asset attribute data with asset geographical data; and
- The electronic interface between *[name]* and *[the NCA’s FMIS]* is not currently operational (this interface will become obsolete due to the

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<sup>10</sup> The ANAO established in September 2007 that the same AMS is being used by a number of other public authorities in Australia, including Goulburn Valley Water, South Gippsland Water, Central Highlands Water, Lower Murray Water, Yarra Valley Water, City West Water (Vic), the Port of Melbourne Corporation and the City Councils of Perth, Geelong, Caboolture, Wollongong, Manningham (Vic), Mackay, Adelaide, Glenorchy (Tas) and the Gold Coast.

upgrade of *[the NCA's FMIS]* from version 4 to version 5 in the next 2 – 6 months).

**2.29** The report also made numerous recommendations and proposals on how the situation could be rectified so that the AMS could be used to its full potential. The consultants' draft report was presented to the Authority at its meeting of 21/22 February 2005 but a final report was not presented to the Authority and the proposed asset management improvement project was not delivered. Instead, due to continuing concerns regarding the availability of a documented asset management system, the NCA's Estate Unit formulated a detailed database listing assets, their maintenance requirements, work undertaken and planned future work.

**2.30** At its 23 October 2006 meeting, the NCA's Management Committee agreed as a priority to transfer the Estate Unit's database into the proprietary system and to desist the use of a separate data base by end December 2006. In this respect, the NCA's CEO was advised that:

Estate has in the past requested the provision of an asset management system utilising *[name]* but has been unable to access such a system due in part to its prioritisation in linking it with the *[FMIS]*. Due to concern regarding the availability of a documented asset management system the Estate unit recently formulated a detailed database listing assets, their maintenance requirements, work undertaken and planned future work. This database utilises the recommendations provided in condition reports and indicates a proactive approach to asset management while a formal asset management system (on *[name]*) is implemented.

It was considered essential in the interim to provide a level of service to project officers to track, monitor and report on the maintenance of key assets. Prior to the implementation of the database (some six months ago) Estate had no form of online asset management system but instead referred to, (or in many cases not), condition reports. This was clearly inadequate.

I understand *[named consultant]* is to review the system and implement some of the recommendations contained in the Asset Management Process Improvement–Implementation Plan presented to the Authority at the February 2005 meeting.

It is recommended that rather than desist the use of the database by the end of December 2006, and potentially have no asset management system in place, the existing database remains until *[name]* is set up and staff are trained in its use.

Estate is happy to utilise *[name]* as an asset management system when it is configured to accept and report on these assets.

**2.31** The NCA's CEO decided that a detailed implementation plan should be fully costed, with completion to occur before June 2007.

## Cost and use of the AMS

**2.32** It is estimated that the NCA has spent more than \$1.4 million on the AMS (see Table 2.1). This figure does not include the salaries of NCA officers who worked on the system during the implementation phase or the ongoing salary costs of staff who have maintained the system.

**Table 2.1**

### AMS – identifiable costs 1997–2007

YEAR	ITEM	COST \$
1997	GHD – advice on selection of Asset Management System	47 000
1998–1999	Consultant (tender evaluation and system implementation)	207 890
1999	KPMG – probity advice on tender evaluation	8 675
1999	AMS – software and implementation costs	529 160
1999	Australian Government Solicitor – advice on contract	21 970
1999	Data entry (contractor)	15 205
2000–2007	AMS – annual software licences	280 000
2004	Maunsell – report and recommendations	55 000
2004	Maunsell – synchronisation with NCA's FMIS	79 310
2007	Contract for asset register integrity verification	24 640
2007	Contract for asset geospatial data collection	77 000
2007	Contract for asset management consulting services	57 420
Various	Miscellaneous identifiable costs	17 765
<b>TOTAL</b>		<b>1 421 035</b>

Source: National Capital Authority files

**2.33** ANAO analysis of the AMS confirmed that, while the system contains a large amount of data in relation to assets (most or all of which was entered into it in 1999), little of the functionality has ever been used. Indeed, the AMS is used only for calculating depreciation on assets<sup>11</sup>.

<sup>11</sup> This calculation is a requirement of all agencies which are prescribed under the *Financial Management and Accountability Act 1997* (the FMA Act).

**2.34** In August 2007, the NCA advised the ANAO that part of the reason that the AMS was not used as intended was that it is not 'user-friendly'. Although some \$80 000 was spent on attempting to link the AMS to the NCA's FMIS, the link ceased to work when a newer version of the FMIS was installed and has not worked since. This means that any financial data that is relevant to NCA assets would have to be loaded separately into the AMS and into the FMIS. This has tended to create doubts as to the accuracy of financial data in the AMS, as is evident from:

- the 2005 consultants' report (see paragraph 2.28) which stated 'The quality of the data (accuracy and completeness) is questionable as numerous Authority staff have input data since its implementation in 1999 with little or no quality control'; and
- the ANAO's examination of the AMS suggested that there is some duplication of assets within it and some assets included in the system despite being recorded as being 'non-NCA assets'.

**2.35** The NCA acknowledged that there has been a significant 'sunk cost' in the AMS, but it is now considering its future. The NCA has advised that it is investigating alternatives to the AMS and although it would ultimately be a matter for decision by its Management Committee, it was possible that the NCA would dispense with it<sup>12</sup>. In December 2007, the NCA advised the ANAO that:

The majority of the costs for [name] relate to the acquisition and implementation of the system up until 1999. From 2000 to 2007 the majority of the costs relate to annual licence fees<sup>13</sup>. Both these costs would be attributable to any system operated by the NCA.

It is understood that there are a broader range of alternative systems that are now available and it is appropriate for the NCA to review these systems.

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<sup>12</sup> As shown in Table 2.1, the NCA entered into three contracts during 2007 for a total of \$159 060 which involve further expenditure in relation to the AMS.

<sup>13</sup> As reported at paragraph 2.28, consultants engaged by the NCA reported in 2005 that although only one person actually used the AMS, the NCA continued to pay for 40 licences each year at a cost of approximately \$38 000 per annum.

## Recommendation No.2

**2.36** The ANAO *recommends* that the NCA support its documented asset management framework by taking timely steps to implement a system that enables it to effectively manage the operation and maintenance of the national assets.

### *Agency response*

**2.37** The NCA agreed to the recommendation. The NCA commented that:

To improve its asset management recording arrangements the NCA engaged the services of a consultant in April 2007 to record GIS data on the precise location of each of the NCA's assets in its Hansen Asset Management System (Hansen). The collection has been completed and the data attached to all assets in Hansen.

As part of the procurement process for a new Financial Management Information System (FMIS) to replace the existing system SUN, the NCA has also conducted an assessment of existing and compatible 'off the shelf' asset management systems. The focus has been on assessing system capabilities as they relate to the needs of the NCA in managing its diverse range of administered and departmental asset management. A key criterion was the ability of such a system to be efficiently incorporated into existing operational workflows and have a direct interface with other core business systems such as the FMIS.

The NCA has selected a suitable replacement system (Technology One) and is planning full implementation by December 2008. The Technology One system will fully integrate financial and asset management, with the capability to also incorporate human resource management at a later date. The system is widely used elsewhere in the Commonwealth Government, presents an opportunity to automate some administrative workflows and will improve both operational management and internal control in respect of contract management. The NCA has obtained a competitive pricing package by conducting its procurement in conjunction with another agency. As a result, the annual licence fee is lower than the aggregate currently paid for the SUN FMIS and Hansen Asset Management System.

## 3. Asset Maintenance

*This Chapter examines the NCA's asset maintenance arrangements and looks in detail at two specific asset maintenance contracts.*

### Introduction

**3.1** Since its creation in 1989, the NCA has managed the majority of the assets for which it is responsible under a series of contracts with private sector companies. Table 3.1 shows the current contracts. As can be seen, the duration of contracts varies. This is based on a case-by-case judgement by the NCA on the competitiveness of the market for each contract in addition to the need to make contracts of sufficient duration to attract a number of tenders.

**Table 3.1**

#### NCA maintenance contracts

Contract	Duration (Years)	Contract Amount (\$)
Maintenance of buildings on national land	3+1+1	664 921
Maintenance of the Captain Cook Memorial Jet	3	277 305
Parkes Place open space maintenance	2+1+1+1	908 300
Parliamentary Executive open space maintenance	2+1+1+1	1 811 105
Humanities, Science and Arts open space maintenance	2+1+1+1	1 628 442
Anzac Parade open space maintenance	2+1+1+1	762 100
Yarramundi/Stirling Ridge open space maintenance	2+1+1+1	476 700
Commonwealth/Kings Park open space maintenance	3	1 938 080
Scrivener Dam facility management	5+5	3 453 230
Scrivener Dam safety and surveillance	5+3+2	207 776
Lake Burley Griffin maintenance	3	666 030
NOTE: Some contracts are let for an initial period, with provision for extension subject to satisfactory performance.		

Source: National Capital Authority

**3.2** In relation to the sources of its funding for asset maintenance, the NCA advised the ANAO in April 2008 as follows:

Appropriation for Administered depreciation expense is the primary source of NCA funding for significant replacement and upgrade works for Administered assets. This funding stream is commonly referred to as

‘depreciation funding’.<sup>14</sup> The depreciation funding model is based on an assumption that by providing a cash appropriation equal to the annual depreciation charge, agencies should, over the life of an asset, be able to accumulate sufficient cash reserves to provide for the replacement of assets (or components) as they reach the end of their useful life. The depreciating funding stream commenced in 1999 with no recognition of the age of individual assets. There was no back-payment to provide for the expired portion of useful life. Scrivener Dam was already 35 years old when the funding stream commenced. As a result, the NCA will always be behind schedule on the replacement of components of older assets such as Scrivener Dam.

**3.3** Given that the majority of the national assets for which the NCA is responsible are maintained under contract, the ANAO selected two of those contracts in order to assess how effectively the NCA is administering them. The contracts selected were a recently completed contract for Commonwealth/Kings Park Open Space Maintenance and a current contract for Scrivener Dam Facility Management. The former was selected because the Commonwealth/Kings Park Open Space Maintenance contract is the largest of a number of open space maintenance contracts and the fact that it has recently been completed allowed the ANAO to examine the NCA’s administration of a large contract over its entire life. The Scrivener Dam Facility Management contract was chosen because of the overall size of the contract but also because of the public interest in the effective maintenance of Scrivener Dam.

## **Commonwealth/Kings Park Open Space Maintenance contract**

**3.4** The contract for the maintenance of open space in Commonwealth Park and Kings Park was won by a local Canberra company in open tender in April 2001. The term of the contract was for three years, with provision for extension for a further two years<sup>15</sup>.

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<sup>14</sup> In its March 2007 report *Transparency and accountability of Commonwealth public funding and expenditure*, the Senate Standing Committee on Finance and Public Administration recommended (Recommendation No. 6) that, that unless the Government can propose another mechanism that would overcome the accountability and transparency issues raised in connection with the carry over of appropriations, it should discontinue the appropriation of funds to agencies for the purpose of depreciation.

<sup>15</sup> This contract is referred to in this report as the first open space maintenance contract and the contractor as the first contractor. At the expiry of the contract in 2006, a new tender was called and a new contract (for three years from July 2006) was won by a different local company. This contract is referred to as the second open space maintenance contract and the company as the second (current) contractor.



## Contract structure

3.5 The contract with the first contractor was a substantial document, running to almost 200 pages. The key component of the contract was the Contract Specification which set out in detailed terms the work required of the contractor. The specification covers the following areas:

- irrigated grass maintenance;
- dry land grass maintenance;
- native grass maintenance;
- floral displays;
- shrubs, vines and hedges;
- trees;
- weed, disease and pest control;
- irrigation systems;
- paths and hardstands;
- park furniture and play equipment;
- aquatic ponds, plants and water courses;
- localised storm water systems;
- events co-ordination; and
- reports.

3.6 Each of these sections specified the performance standard required. For example, the section on grass maintenance specified that lawn areas shall be mowed to maintain the grass between 40 and 70 mm high, while native grass areas shall be mowed to maintain a height of between 40 and 100 mm. The specification therefore made it very clear to the contractor what was required.

## Monitoring contract compliance

3.7 As with any contract of long duration, it is necessary to monitor the contractor's performance. To that end, the contract required the first contractor to provide the NCA with a range of written reports. These reports, together with the required frequency of reporting are shown at Table 3.2. As illustrated by Table 3.2, fewer than one half of one percent of the required reports are held on the NCA's files.

**Table 3.2****Performance reporting required of contractor**

Report	Required Frequency	No. Required	No. on NCA File
Inspection of shrubs, vines and hedges	Twice per year	10	0
Trees requiring attention	As required	-	-
Trees – inspection by arborculturalist	Twice per year	10	1
Presence of scarab grub	At least weekly during December/January	40	0
Irrigation system condition report	Monthly	65	0
Final irrigation system condition report	One month prior to end of contract period	1	0
Paths, bridges and hardstands	Twice per year	10	0
Play equipment safety	Fortnightly	130	0
Park furniture	Monthly	65	0
Ponds and waterways–leakage	As required	-	-
Pumps and pump wells inspection	Monthly	65	0
Pumps – complete condition report	Once per year	6	1
<b>TOTAL</b>		<b>402</b>	<b>2</b>

Source: NCA first open space maintenance contract specification.

**3.8** The NCA advised the ANAO in October 2007 that the second (current) contractor prepares the reports required of it but holds them at its premises. The NCA was unable to advise whether the same practice applied with respect to the first open space contract, since the person who had administered that contract has now left the NCA. In any event, the absence of the reports from the NCA's records does not represent sound contract management for three reasons:

- the contract clearly stipulated that not only were the reports required to be completed, they were required to be submitted to the NCA;
- not obtaining the reports meant the NCA was unable to be assured that the contractor was actually carrying out the work for which it was being paid; and
- in the absence of the reports, the NCA had (and still has) little ability to assess on a continuing basis the condition of the assets covered by the contract.

## Assessment of performance under contract

**3.9** Compliance with mandatory reporting requirements is an important part of assessing the compliance of contractors under contract. The issue of the performance of the first contractor became of particular significance in 2004 when the initial three year period of its contract came to an end. Under the terms of the contract, the NCA could 'at its sole option' require the first contractor to continue to perform the work under the contract for a further period, defined to be two years. The alternative to extending the contract would have been to call fresh tenders.

**3.10** In April 2004, the NCA Project Officer responsible for the administration of the contract submitted a proposal to the NCA's Tender Board in which he recommended that the contract be extended for two years. In the introduction to the submission, the Project Officer addressed the issue of the first contractor's performance as follows:

[The first contractor] has informally indicated interest in continuing. However, a recent performance audit indicated the necessity for the Authority's superintendent to delay a decision to extend the contract pending [the first contractor] demonstrating a preparedness to improve its performance in some key areas. That improvement has now been acknowledged by the Authority.

**3.11** The submission went on to say:

### Contractor's performance

The performance of [the first contractor] over the past three years has been satisfactory, proving to be responsive and reliable, particularly in relation to various requests to deal with sensitive matters unrelated to their contract on behalf of the Authority<sup>16</sup>. An independent audit of performance under the contract, conducted in February 2004 on behalf of the Authority by [named individual], revealed that assets were generally being maintained to the required standard, but that there were some key areas of concern, including quality of lawns and maintenance of trees. The auditor found that the condition of assets indicated the contractor was not fulfilling some of its more important obligations under the contract. The Superintendent directed [the first contractor] to rectify this underperformance and is now satisfied that a significant improvement is evident.

**3.12** NCA files do not contain a copy of the direction referred to above (if it was given). Clause 23 of the first open space maintenance contract provides 'Except where the Contract otherwise provides, a direction may be given orally

<sup>16</sup> The NCA's contract administration files do not show what these 'sensitive matters' were.

but the Superintendent shall as soon as practicable confirm it in writing'. However, the NCA file does contain a March 2004 email from the first contractor which refers to the 'audit report' and then to 'recent changes made by [the first contractor] to the management of Commonwealth Park'. Among the changes referred to in the email is the following:

Inspections will be carried out on each area by the [first contractor's] supervisor of the contract with written notes made for each area for the staff member to action. Follow up inspections will be carried out 4 weeks after each inspection. Reports of to do lists as well as tasks to follow up will be given to NCA monthly.

**3.13** The inspections referred to would be similar to the reporting requirements which were already part of the contract. Accordingly, had the NCA enforced the reporting requirements of the contract from the outset, it is likely that any performance issues would have been identified earlier and could have been dealt with. However, similar to the reporting requirements, the NCA files do not contain any 'reports of to do lists as well as tasks to follow up'.

**3.14** The Tender Board accepted the recommendation to extend the first contractor's contract for a further two years from 17 April 2004 to 16 April 2006. In accordance with the contract conditions, payments would be increased by the rate of the increase in the Consumer Price Index over the first three years of the contract, which the NCA calculated to be 8.745 per cent. The first contractor was advised of the contract extension in a letter from the NCA CEO dated 3 May 2004.

**3.15** In addition to the two year extension provided for in the contract, the NCA extended the contract again at the end of the additional two years. In January 2006, the NCA Project Officer sought and received the approval of the Tender Board to 'extend the maintenance contract with [the first contractor] on a month to month basis for up to three months beyond the expiry date of 25 March 2006'. However, the Tender Board was not advised that Clause 35 of the contract stipulated:

The Principal may only exercise its option to extend the Period once.

**3.16** In practice, the contract was extended for five months beyond the latest possible date permitted under the contract because it was not formally terminated by the NCA until 31 August 2006. This approach is inconsistent with the Commonwealth Procurement Guidelines.

## **Contract administration – overpayments and undercharging**

**3.17** The ANAO's examination of the administration of the Commonwealth/Kings Park Open Space Maintenance contract revealed a number of instances where the NCA had either overpaid the first contractor or had not charged it amounts that the contract had stipulated. The more significant of these instances, and the NCA's response to the ANAO findings, are set out in the following paragraphs.

### ***Rental of Commonwealth Park Depot***

**3.18** The NCA owns a maintenance depot and compound in Commonwealth Park occupying some 1400 square metres, adjacent to Regatta Point. When tenders were called for the contract, the NCA invited tenderers to include in their tenders a price to rent the depot and compound for the duration of the contract. As part of its tender, the first contractor offered to rent the depot for \$15 000 per annum and the compound for \$10 000 per annum. The first contractor's offer was accepted as part of its selection as the successful tenderer.

**3.19** The CEO of the NCA made a formal offer for the lease to the first contractor of the depot and compound on 14 June 2001, which stipulated that the first contractor would pay rental quarterly in advance. The first contractor accepted the offer (in writing) on 26 June 2001 and included with its acceptance a cheque for \$6250 for payment of the first quarter's rent. The NCA and the first contractor entered into a formal licence arrangement for the depot and compound in July 2001 with a commencement date of 12 April 2001. The licence agreement was signed by the CEO of the NCA and the first contractor's company director/secretary.

**3.20** The cheque that the NCA received from the first contractor in June 2001 was the first and last. Despite the existence of a formal, binding agreement, the NCA did not invoice the first contractor for the rent and the first contractor did not make any further payments throughout the more than five years of the contract. The ANAO has calculated that the shortfall in the revenue that the NCA should have collected from the first contractor is \$135 417<sup>17</sup>.

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<sup>17</sup> The first open space maintenance contract ran from April 2001 to 31 August 2006. This represents 22 full quarters and two months.

**3.21** In 2003, the NCA had discussions with the first contractor about the NCA using a small part of the compound for storage. On 16 July 2003, the NCA wrote to the first contractor in the following terms:

Thank you for agreeing to the proposal that a small area within the compound be excised from the above Licence Agreement. As discussed, this area will be used by the Authority for storage. The area of land to be excised from the Agreement is shown coloured blue on the attached Plan. In relation to the balance of the premises occupied by [the first contractor], the conditions of occupancy will remain the same as those contained in the above Agreement.

The area of land excised from the Compound is approximately 102 square metres. On a proportional basis relating to land area and rent paid to the Authority for the Premises being \$25 000 pa (GST inclusive), that would equate to a reduction in rent of approximately \$1 812 pa on an annual basis or \$151 per month. The Authority will refund you this amount on a monthly basis during the period of occupancy by the Authority.

**3.22** In practice, the NCA did not refund the \$151 per month. Instead, the first contractor began adding it to their monthly invoices and continued to do so for the remaining three years of the contract. In effect, the NCA was giving the first contractor a rebate on rent that was not being paid.

#### *Overpayment for work not carried out*

**3.23** On 14 August 2006, the Project Officer sent an email to the first contractor in which he noted that, although the original contract amount provided for a lump sum of \$19 800 for the first contractor to prepare a floral display in each of the first three years of the contract, it had in fact only prepared one. The Project Officer's email said:

I'm of the view this represents an overpayment of \$39,600 for the two forgone floral displays over the past two years. Would you please advise your preference for settling this matter as soon as possible. I'm happy to discuss further with you.

**3.24** However, the NCA did not invoice the first contractor for the overpayments the NCA had made. In November 2007, the NCA advised the ANAO that there was no record of any response from the first contractor and no repayment was made.

**3.25** The project officer's email referred to at paragraph 3.23 did not take into account the fact that the first contractor's contract was extended by two years. This means that there were in fact four 'forgone' floral displays rather

than two representing a total overpayment by the NCA of \$82 664 (including indexation).

**3.26** The project officer's email went on to say:

On another matter, we will need to walk the contract area with [named first contractor employee] when he returns from leave. Can you indicate a convenient time(s) when you'll both be available?

**3.27** In November 2007, the NCA advised the ANAO that no 'walk-through' took place.

*Irrigation system final report*

**3.28** Under the terms of the contract, the first contractor was required to submit a report to the NCA in relation to the irrigation system. Clause 9.2 of the contract states:

Not later than one month before a contract is due to end, the Contractor shall inspect irrigation systems and ensure they are in working order prior to a joint hand-back inspection with the Supervisor. The Contractor shall complete a formal report of this inspection and present it to the Superintendent prior to the hand-back meeting. Contractors who fail to observe this requirement may be responsible for additional costs that occur.

**3.29** In November 2007, the NCA advised the ANAO that the first contractor did not provide the report required by Clause 9.2 and that there was no 'hand-back inspection'.

**3.30** In September 2006, the second contractor undertook a detailed examination of the irrigation systems. The examination highlighted that parts of the irrigation system were not in working order. Among the problems that the second contractor found were the following:

- 927 sprinkler heads needed some repair or adjustment, including 147 that required replacement;
- broken pipes;
- electrical wiring problems;
- irrigation controllers not functioning and in one case, unsafe;
- leaking isolation valves and stop cocks; and
- water bubblers and taps missing.

**3.31** On 15 September 2006, the NCA agreed to a quote from the second contractor of \$50 468 for 'repairs sufficient to make operational'. The contract with the first contractor clearly stipulates that the cost of repair and/or replacement of all parts of the irrigation system were to be borne by the first contractor as part of the 'lump sum' provisions of the contract. Had the NCA ensured that the irrigation system inspection was carried out, the first contractor would have had to meet the cost of making the system operational. It would be appropriate for the NCA to also consider the recovery of these costs.

#### *Other deficiencies*

**3.32** In addition to the items described above, the ANAO identified other, less significant, instances which resulted in the NCA paying more than it should have. These were:

- incorrect calculation of amounts by which certain contract components were indexed (\$19 431);
- payment of amounts which should have been deducted due to arrangements for Floriade (\$15 467);
- non-collection of costs of repairing defects to Commonwealth Park depot (\$3003);
- incorrect payment in relation to a contract component (\$1027)

#### *Summary of overpayments and overcharging*

**3.33** The instances of overpayment and undercharging are summarised in Table 3.3 below.

**Table 3.3**

#### **Commonwealth and Kings Park Open Space Maintenance contract – overpayments and undercharging**

Item	Amount (\$)
Non-payment of depot rental – first contractor	135 417
Overpayment for floral displays that were not done	82 664
'Repairs sufficient to make operational' to irrigation system	50 468
Other deficiencies (see paragraph 3.32)	38 928
<b>TOTAL</b>	<b>307 477</b>

Source: ANAO analysis



**3.34** The ANAO advised the NCA of its findings in relation to overpayments and undercharging in January 2008. In February 2008, the NCA advised the ANAO that:

The NCA agrees with the overpayments and overcharging issues raised by the ANAO... The NCA will include these items in the recovery action against *[the first contractor]*.

### **Contract completion and release of security**

**3.35** Where a contract which relates to the delivery of goods and services involves a significant payment, it is common practice to require the contractor to provide a security or guarantee at the commencement of the contract. In this context, the ANAO's Better Practice Guide for Developing and Managing Contracts<sup>18</sup> states:

In some contractual situations, it may be necessary to obtain separate deeds or security. These are commonly in the form of financial securities in which the acquiring entity is entitled under the deed, to obtain financial recompense directly from a third party should the contractor fail to perform its contractual obligations.

**3.36** The NCA followed 'better practice' by including a security provision in the first contractor's contract. The contract specified the amount of the security to be five per cent of the contract sum. The contract sum (for the first three years of the contract) was \$1 938 080 and the security should consequently have been \$96 904. However, the amount of security actually provided by the first contractor (in the form of a bank guarantee in favour of the NCA) was \$57 271. The NCA files do not contain any explanation of the reason for the security being \$39 633 less than the contractual requirement.

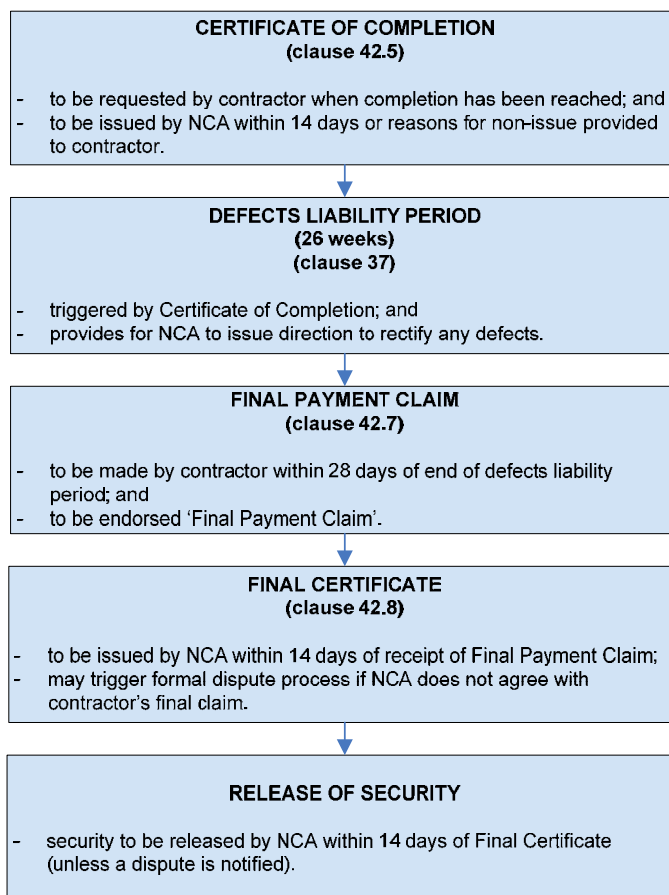
**3.37** The contract contained a number of specific provisions relating to its completion and ending to ensure that the first contractor had met all the contract requirements before it could receive its final payment under the contract and, importantly, before the security could be released. The sequence of the provisions is described at Figure 3.1 below.

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<sup>18</sup> ANAO Better Practice Guide, *Developing and Managing Contracts*, February 2007.

**Figure 3.1**

**First Open Space Maintenance contract: completion provisions**



Source: ANAO analysis of contract

**3.38** In the event, these procedures were not followed. On 25 July and 4 August 2006, the first contractor submitted its last two invoices (totalling \$127 147.90). On 24 August 2006, the Project Officer authorised the first contractor's final invoices for payment and they were paid on 30 August 2006. Although there is no reference on the NCA files to the bank security being authorised for release, it would seem likely that this was authorised by the Project Officer. The NCA advised the ANAO in February 2008 that it was unable to locate documentation authorising the release of the bank security.

## Recommendation No.3

3.39 The ANAO *recommends* that the NCA improve its contractual arrangements for maintenance of national assets by:

- (a) adopting more rigorous and consistent practices for monitoring contractor performance and addressing any shortcomings;
- (b) emphasising to contract managers the importance of following procedures for contract completion as set out in contracts; and
- (c) implementing stronger controls over the checking and certification of contractor invoices.

### Agency response

3.40 The NCA agreed to the recommendation and made the following comments against each part of the recommendation:

- part (a): 'The NCA is progressively implementing a number of new administrative arrangements for the procurement and management of its maintenance contracts including:
  - All procurements valued at \$10,000 or greater have a Procurement Methodology form completed by the appropriate financial delegate to demonstrate compliance with the Commonwealth Procurement Guidelines and the NCA's Chief Executive's Instructions. (Implemented)
  - Contract Management Plans for new maintenance contracts which include: background to the contract, services to be delivered, time-frames, reporting, transition arrangements, assessment of contractor performance (including Key Performance Indicators) and financial arrangements.'
- part (b): 'The NCA conducted internal financial management training sessions for staff during October, November and December 2007. A major component of the training was on purchasing and procurement compliance with the Chief Executive Instructions including contract management responsibilities. As at December 2007, seventy-five percent of the NCA's staff had attended the training, including all contract managers and staff who hold a financial delegation.

Additional training on Contract Management available from the Australian Government Solicitor has been identified as meeting our

needs as it would greatly assist in educating our staff about best practice contract management and compliance with the FMA Act. This training will be an NCA priority for 2008–09.

The implementation of Contract Management Plans for major contracts referred to in our response to Recommendation 3(a) will also assist NCA's contract managers and improve the NCA's management practices.'

- part (c): 'New maintenance contracts will have stronger certification requirements for invoices, particularly where there has been a variation in the claim and/or unscheduled work that has been requested by the NCA.

The NCA considered the above arrangements and further education of its staff will result in more effective control mechanisms for the checking and certification of invoices.'

## Scrivener Dam Facility Management

**3.41** The construction of Scrivener Dam began in 1960 and was completed in 1964 when then Prime Minister, Sir Robert Menzies, officially commemorated the filling of Lake Burley Griffin on 17 October 1964. The dam is 33 metres high and 319 metres long. It is used to control the level of Lake Burley Griffin which it does either through the use of three sluice gates located at the bottom of the dam or, for larger quantities of water, by the use of one or more of five 'fish belly' flap gates which are raised and lowered by hydraulic rams. The dam holds back about 33 million cubic metres of water (roughly one-tenth of the volume of Sydney Harbour) which means that in Australia, it is classified<sup>19</sup> as a large dam.

**3.42** The National Capital Planning Authority<sup>20</sup> became responsible for Scrivener Dam on 1 July 1992 as part of changes in administrative arrangements following the introduction of self-government in the ACT.

### Scrivener Dam facility management contract

**3.43** Between 1992 and 2000, the day-to-day operation of Scrivener Dam was carried out by the ACT Stormwater section of the ACT Department of Urban Services but, in 2000, the NCA awarded a contract for facility management of

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<sup>19</sup> By the Australian National Committee on Large Dams (ANCOLD).

<sup>20</sup> The predecessor to the NCA.

the dam to SunWater, a corporation owned by the Queensland Government. The contract was for an initial period of five years with an option to renew for a further five years. The contract was renewed in July 2005. The value of the contract for the first five years was \$3 028 181 and the estimated cost for the extension of the contract to 30 June 2010 is \$3 453 228 with an approximate total ten year cost of \$6.5 million.

### *Contract structure*

**3.44** The Scope of Work of the contract was stated to be as follows:

- routine operator inspections;
- routine operation and maintenance;
- flood planning, flood forecasting and flood operations;
- maintenance of data on an asset management system;
- documentation review and updating;
- planned works subject to separate approval by the principal [NCA];
- unplanned works – emergency; and
- unplanned works – non emergency; subject to separate approval by the principal.

**3.45** The reason for the distinction between planned and unplanned maintenance was cost-related: in the event of an emergency, SunWater was permitted to take whatever action was necessary (although it was required to attempt to seek the NCA's approval if the work was likely to cost more than \$10 000). For non-emergency unplanned works, the contract imposed a limit of \$5000, below which SunWater were not required to seek specific approval before carrying out the work.

**3.46** ANAO analysis of unplanned maintenance tasks carried out showed that over almost seven years between the commencement of the contract and October 2007, SunWater carried out 170 such tasks. The total value of these tasks was just over \$400 000. The average cost of each task was \$2383 and more than 50 per cent of all tasks had a value of less than \$2000. Unplanned maintenance tasks have included items such as cutting of grass, works on the buoy line (which prevents boats approaching too close to the dam) and security grills on buildings at the dam. In April 2008, the NCA advised the ANAO that:

The planning of maintenance and upgrade works for Scrivener Dam is documented in the 2002–2011 Works Program Schedule. This document schedules the planned works the NCA intends to undertake based on the condition of the dam as known at the time of preparation of the schedule. Scrivener Dam is a large and complex asset which is in active use. Accordingly, there is also a need to undertake a range of unplanned works as part of the day to day management of the asset. In the context of limited financial and management resources, the NCA assesses the priority of unplanned works against the priority of the previously scheduled planned works. High priority unplanned works will take precedence over lower priority planned works. This may result in the deferral of some lower priority planned works to a later period.

Many of the Scrivener Dam planned works are complex and have inter-operational relationships. To undertake the planned works in isolation from each other would not necessarily result in the most efficient and effective use of NCA resources.

In an effort to optimise efficiency and effectiveness of the planned works program, the NCA engaged consultants in early 2005 to undertake assessment of the priority and packaging of the works. The NCA accepts that this exercise has resulted in delays to the completion of some previously recommended works but notes that none of the delays have resulted in dam safety or operational performance being compromised.

### *Reporting requirements*

**3.47** As for the Commonwealth and Kings Park Open Space Maintenance contract, the Scrivener Dam contract imposes a requirement on SunWater to provide regular reports on its operation and maintenance activities and submit them to the NCA. Reports are required each month and annually.

**3.48** Of the seven annual reports which should have been received at the time of the ANAO's inspection in December 2007, all were on the NCA's files and had been submitted on time.

**3.49** In relation to monthly reports, the NCA's files included 80 of the 90 monthly reports that should have been received. However, the majority (85 per cent) of the reports that were submitted were late. Four reports were not submitted until more than three years after the month to which they related. There was no evidence of the NCA pursuing more timely reporting. Clearly, reports which are substantially late are of little use.

### *Invoicing arrangements*

**3.50** The contract provided that SunWater would invoice the NCA each month for routine operations and maintenance. This was a fixed amount each month with provision for annual indexation increases. The ANAO examined all invoices lodged by SunWater and confirmed that in respect of all but two months, SunWater had charged the correct amount each month and had correctly applied the indexation amount specified in the contract. On two occasions, the NCA's project officer had detected inadvertent over-charging by SunWater and had taken appropriate corrective action.

**3.51** The ANAO concluded that in relation to the routine operations and maintenance and unplanned maintenance components, the contract has to date been administered effectively. However, this has not been the case with respect to planned maintenance.

### **Planned maintenance**

**3.52** As noted at paragraph 3.45, planned maintenance tasks are ones which cost more than \$5000 and the procedure required under the contract was that SunWater would submit proposals for planned maintenance tasks to the NCA for its approval. SunWater included a number of proposed planned maintenance tasks in its tender in May 2000 and formally submitted a number of proposals in July 2000 after it had won the tender. It resubmitted the proposals in 2001 and 2002. On 15 October 2002, SunWater's Operations Manager wrote to the CEO of the NCA in the following terms:

I refer to my letter of 21 November 2001 in which I wrote to you expressing my concerns in relation to the operational reliability of Scrivener Dam during flood events. Unfortunately, to date no works have been approved to improve this situation, however I would like to make you aware of three projects that I consider critical:

- Hydraulic Ram Oil Leaks – since at least 1997 the NCA have been aware of oil being discharged into the Molonglo River from the flap gate hydraulic rams. I understand that this is a breach of the Environment Protection Act and that the Environment Protection Authority should be notified. I have obtained preliminary legal advice on this issue, and I believe that remedial works should be initiated immediately.
- Flap Gate Seals – Flap gates 1 and 4 are currently leaking badly through their side seals. The seals require urgent replacement before total failure occurs. There are no spare side seals currently at the dam.

- Ram Pit Hydraulic Pipework – Much of the steel hydraulic pipework in the flap gate ram pits is badly corroded and in need of replacement. Failure of one of these pipes would result in a major oil discharge into the Molonglo River, as well as compromise the operation of the flap gates.

**3.53** In a further letter on 31 January 2003, SunWater's Operations Manager said:

I continue to have concerns in relation to the preparedness of Scrivener Dam for a major flood event, and I would refer you to my previous correspondence to you on this issue. The attached report proposes works addressing these issues.

**3.54** The Director, National Capital Estate replied to SunWater's letter on 28 February 2003 on behalf of the CEO. By that time, the NCA had approved Planned Maintenance works for the flap gate seals and the letter went on to say that work on the other items referred to in SunWater's October 2002 letter 'will commence during the current financial year', although work on replacing the hydraulic pipework was not in fact completed until December 2004.

**3.55** The first Planned Maintenance task (which was to replace side seals on flap gate 4 at a cost of \$25 153.40) was not approved by the NCA until November 2002, some two years after SunWater had first submitted it. In its July 2004 Annual Report for 2003–04, SunWater said:

Planned maintenance reports have been submitted to the NCA in July 2000, March 2001, February 2002 and February 2003. SunWater consider that a number of jobs are still required to bring the dam to a suitable state for Flood Readiness and these jobs are detailed in the Planned Maintenance Report [which was attached to the Annual Report].

**3.56** Delays were also evident in relation to other major capital works. The most significant of these were a proposed electrical upgrade of the dam and a number of tasks first recommended by a consultant engaged by the NCA in 1996.

## **Electrical upgrade**

**3.57** In May 1998, the NCA engaged a firm of consultants to review the electrical system at Scrivener Dam and to prepare tender documents for a major upgrade. The consultant's report, which was submitted in September 1998, recommended a large number of projects associated with the electrical system. In 2004, the NCA requested SunWater to prepare a program for the electrical upgrade, using the 1998 consultant's report. The ANAO located on



the NCA's files a document entitled 'Scrivener Dam – electrical upgrade: two year program commencing November 2003' which listed 25 separate projects. The ANAO also located practically identical documents which were headed 'Scrivener Dam – electrical upgrade: three year program commencing January 2005' and 'Scrivener Dam – electrical upgrade: three year program commencing November 2006'<sup>21</sup>. The existence of these documents suggested that little progress had been made on actually implementing the projects. In this light, the ANAO requested the NCA in January 2008 to provide a summary of the status of the various projects. Table 3.4 shows the various projects, which of the three programs they were included in and their status as at January 2008.

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<sup>21</sup> The 2005 and 2006 programs differed from the 2003 program in that they included three additional projects. The 2006 program omitted one project included in the previous programs.

**Table 3.4**

**Scrivener Dam electrical upgrade–status**

ITEM	PROGRAM			STATUS JANUARY 2008
	2003	2005	2006	
Upgrade dam flood management system				In progress
Review and complete existing electrical upgrade				In progress
Upgrade flap gate position indicators				Completed
Gate limit switches				Not commenced
Replace corroded electrical conduits on downstream face				Not commenced
Upgrade gallery ventilation				Not commenced <sup>A</sup>
Upgrade office electrical circuits				Completed
Replace main AC switchboard in dam abutment				Completed
Replace distribution board adjacent to gallery remote control				Completed
Cabling for main switchboards/control panel				Not commenced <sup>B</sup>
Flap gate AC switchboards				Not commenced <sup>B</sup>
Flap gate control panels				Not commenced
Flap gate hydraulic oil pressure and level sensors				Not commenced <sup>C</sup>
Interconnection data cabling between gate control panels				Not commenced
Sluice gate AC switchboards				Not commenced
Sluice gate control panels				In progress
Sluice gate pressure and level sensors				In progress
Commissioning of upgraded flap gate and sluice gate				Not commenced
Control room PC software, design and commission				Not commenced
Operator control room in dam abutment				Not commenced
Power points in gallery and earth leakage				Not commenced <sup>B</sup>
Upgrade gallery drainage				Not commenced
Diesel generator controller and protection				Not commenced
New diesel generator				Not commenced
Lightning and surge protection of structural and electrical				On-going
Post construction activities (eg as-built drawings)				On-going
<p>Notes:</p> <p>1. In April 2008, the NCA advised of revised status for certain items as follows:</p> <p><sup>A</sup> Under review</p> <p><sup>B</sup> Completed</p> <p><sup>C</sup> In progress</p>				

Source: ANAO analysis of NCA data

**3.58** The NCA's January 2008 estimated cost of the tasks not commenced is \$534 000.

**3.59** The ANAO's analysis shows that almost eight years after the need for the projects listed in Table 3.4 was identified, only seven out of 26 projects (27 per cent) have been completed. In relation to the lack of progress with the electrical upgrade, it is relevant to note that the minutes of the Authority's 30 September 1998 meeting contain the following:

It was noted that the failure of the gates would severely compromise the flood security of Scrivener Dam and therefore the electrical system needs to be upgraded as a priority.

**3.60** It is also relevant to note that in its May 2002 Comprehensive Surveillance Report on Scrivener Dam, ActewAGL<sup>22</sup> said:

The condition of the dam's electrical and control systems were assessed in the [named consultants] Asset Management studies. The 1997 report found that many components were nearing the end of their serviceable life, poorly maintained and of outdated technology. The condition of electrical and control components at the dam is considered a dam safety concern. It is considered that the Electrical Upgrade project should be completed, tendered and constructed as a matter of some priority.

### **Scrivener Dam Asset Management Program**

**3.61** In October 1996, the NCA engaged a firm of consultants to undertake a detailed Asset Management Plan for Scrivener Dam. Among other things, the Plan was to include 'rehabilitation, upgrading and replacement plans for the dam including any necessary procurement of new assets'. The consultants provided a draft Plan to the NCA in April 1998 and sought its comments. The consultants wrote to the NCA in December 1998 repeating its request for comments on the draft Plan, adding that the consultants were 'keen to complete any changes you require and wind up this project'. It was not until November 1999 – 20 months after the consultants submitted their draft report – that the NCA provided its comments, which included a request to rewrite part of the Plan. The final version of the Plan was submitted in March 2000.

**3.62** The plan included a detailed list of works that the consultants believed needed to be carried out on the dam. The list was broken down into three categories according to the priority of each task. These priorities, their relative importance and the number in each category are shown in Table 3.5.

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<sup>22</sup> The NCA engaged ActewAGL in July 2000 to provide annual and five-yearly surveillance reports on Scrivener Dam.

**Table 3.5**

**Asset Management Plan–priorities**

PRIORITY	IMPORTANCE	NO.OF TASKS
1	Considered necessary to be done in the short term (1–2 years) – important for Dam operation and safety, surveillance, OH&S, environment.	26
2	To be undertaken in the immediate future (2 – 5 years) – needs to be done, but not of immediate importance to the dam operation and safety, surveillance, OH&S, environment.	24
3	To be undertaken in the longer term (5 years+) – should be undertaken to improve dam operation and safety, surveillance, OH&S, environment.	14

Source: National Capital Authority

**3.63** The NCA used the consultants' list of works as a basis for a forward Asset Management Plan (AMP) for capital works on the dam. However, this plan was only updated once in 2001–02. In May 2002, in its five-yearly Comprehensive Surveillance Report on Scrivener Dam, ActewAGL said:

The Asset Management Plan is a life cycle tabulation of works and costs for the proper operation of the dam, has not and is not being fully followed particularly regarding non-routine maintenance and upgrade requirements. The document is some 3 – 4 years out of date, is no longer a current document and needs reviewing and revising. This is considered to be an **unsatisfactory** situation and a dam safety concern.

It is **recommended** that the Asset Management Plan be reviewed and revised including any necessary re-costing and re-prioritising. It is further **recommended** that an adequate annual funding should be provided to fully implement the AMP and thereby bring the dam back to an acceptable safe level of condition over the following years.

**3.64** Notwithstanding ActewAGL's recommendations, the Asset Management Plan was not reviewed or revised in the following years. In November 2006, the NCA's Project Officer for Scrivener Dam sent an email to SunWater in which he said:

I need to get an update on the AMS documents that were prepared by [named consultants] in 2000 and then updated by [named SunWater employee] in 2001/02.

**3.65** In its reply to the NCA's Project Officer, SunWater provided a status report of tasks from the 2001/02 Asset Management Plan. The ANAO also asked the NCA to update the Plan to reflect its status as at January 2008. Table 3.6 below shows the status of the Priority 1 tasks (that is, those that should have been completed within one to two years).

**Table 3.6****Scrivener Dam Asset Management Plan current status–Priority 1 tasks**

ITEM	STATUS JANUARY 2008
Refurbish ram cylinders	In progress
Ram pits – drainage and separator	Not commenced
Gallery sump pump and drainage	Not commenced
Sluice gates – refurbish stoplogs, guides, steelwork	Not commenced
Trashracks – refurbish	Not commenced
Secure jack pits to prevent vandalism/sabotage	Not commenced
Install cut-outs in jack pit covers to prevent damage to pressure relief valves	Not commenced
Install vermin proofing on dam flap gate locking pins	Not commenced
Repair/upgrade hand pumps for manual locking pin operation	Not commenced
Install larger flap gate locking pin hydraulic actuating cylinders	Not advised
Replace PVC hydraulic fluid line in gallery	Not commenced <sup>A</sup>
Investigate potential sub-atmospheric pressures on flap gates	Not commenced <sup>A</sup>
Investigate locking pin retraction options	Not advised
Investigate alternative options for operating flap gates	Not commenced <sup>A</sup>
Investigate problems with interconnecting hydraulics between flap gates	Not commenced <sup>A</sup>
Install smoke detectors in control room	Not commenced
Changeover from diesel to portable power supply	Completed
Install plug-in connection for portable generator	Completed
Improve gallery ventilation	Not commenced <sup>B</sup>
Formulate contingency plans for power restoration	Not commenced <sup>C</sup>
Investigate availability of spares for diesel generator and options for back-up	Not commenced
Gallery extension/emergency exit	Completed
Bunding in generator room to contain fuel spillage	Not commenced
Secure dam control building from vandalism and fire	Completed
Prepare Dam Safety Emergency Plan	Completed
Train staff – communication and safety procedures	Completed
Notes: 1. Some items in this table are also included in Table 3.4 (for example, 'Improve gallery ventilation'). 2. In April 2008, the NCA advised of revised status for certain items as follows: <sup>A</sup> In progress <sup>B</sup> Under review <sup>C</sup> Complete	

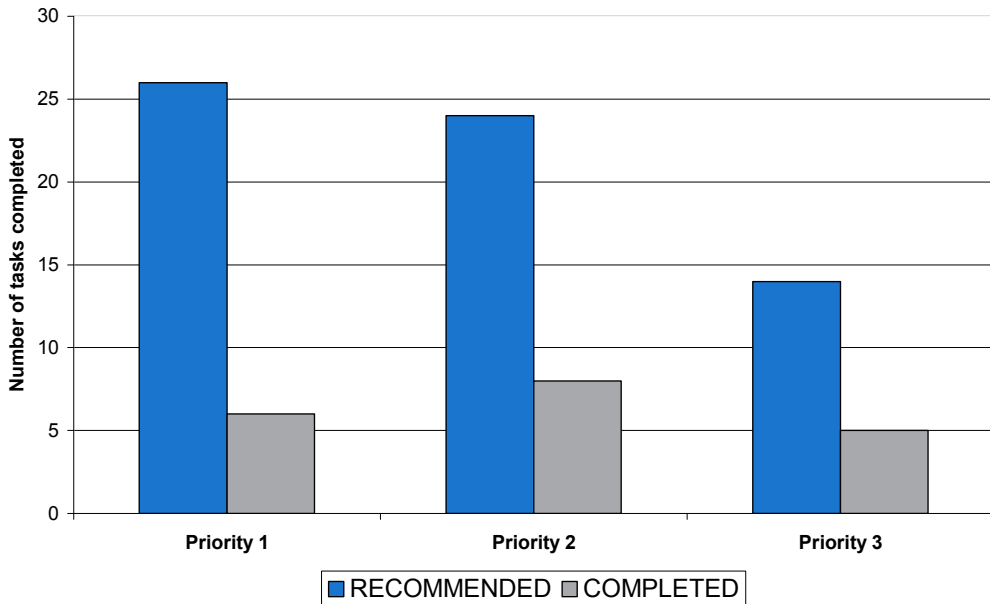
Source: ANAO analysis of NCA files

**3.66** Ascertaining the cost of the tasks which have not been commenced is difficult because the original estimated cost when the consultants' draft report was first submitted in 1998 is out of date.

**3.67** Table 3.6 lists only the Priority 1 tasks recommended by the consultants. Figure 3.2 shows the number of tasks completed in all three priority categories.

**Figure 3.2**

**Scrivener Dam Asset Management Plan current status – Priority 1, 2 and 3 tasks**



Source: ANAO analysis of NCA files.

**3.68** The above analysis shows that ten years after the consultants' examination of Scrivener Dam which led to the works they recommended in the Asset Management Plan, the NCA has completed just over one quarter of the Priority 1 tasks which were considered important to be done within '1–2 years' for reasons including dam operation and safety. Overall, the NCA has completed less than one third of the tasks that the consultant recommended.

**3.69** In addition to the tasks recommended by consultants as part of the electrical upgrade and the asset management study, ActewAGL has on a number of occasions raised concerns in relation to the flap gates hinges. The hinges are located at the bottom of each of the five flap gates on the dam. They run from side to side of the gate. Their location is indicated by the arrows in Figure 3.3 below.

**Figure 3.3**

**Location of flap gate hinges**



Source: ANAO

**3.70** Extracts from ActewAGL's Scrivener Dam Annual Surveillance reports are reproduced in Table 3.7 below.



Table 3.7

**Flap gate hinges – extracts from ActewAGL reports**

DATE	EXTRACT
January 2000	It is recommended to have gate #5 repaired to prevent deterioration and future jamming of the hinges. The water from the leaks enters the ram pits and causes further corrosion of the hydraulic pipelines.
May 2002	Replace gate 5 hinge seals at the first opportunity
October 2003	...there is still significant leakage through the hinges. It could cause more rusting of the hinges. The hinge seal replacement should be done in the near future.
March 2005	Hinge seals – most of the hinges leak. No action has been taken towards the replacement of the hinge seals. This has been reported in the previous surveillance reports.
April 2006	Most of the gate hinges are corroded. They require immediate attention and improvement before they become unrepairable.
August 2007	Most of the gate hinges are leaking and they are badly corroded. They require immediate attention and improvement before they become unrepairable.
April 2008	Most of the gate hinges severely leak and they are badly corroded...They require immediate attention and improvement before become unrepairable. The seal element of all the hinges should be replaced in the near future. Leaks from the hinges can cause more rusting of the hinges and failure of the gate operation.

Source: ActewAGL, various Scrivener Dam surveillance reports

**3.71** Although there have been seven advices over eight years from its dam safety consultant, the NCA has not undertaken any work in relation to the flap gate hinges. The ANAO notes that the only proposed work in relation to the hinges is not scheduled until the 2009/10 financial year and even then, the task is described as:

**Flap gate – hinge bearing inspection:** a sample of flap gate hinge bearings are to be inspected to confirm condition.

**3.72** A photograph of one of the flap gate hinges as at January 2008 is at Figure 3.4 below. It illustrates one of the leaking hinges that the NCA's contracted dam safety consultant has advised (on several occasions) requires replacement.

**Figure 3.4**

**Scrivener Dam flap gate hinge**



Source: ANAO

**Scrivener Dam facility management contract – summary**

**3.73** As noted at paragraph 3.51, the ANAO considers that the NCA's administration of the minor and routine components of the contract were effective in terms of checking that invoice amounts were correct.

**3.74** Both ActewAGL and SunWater have at various times advised the NCA that in their view, Scrivener Dam was not 'at an acceptable safe level of condition' (paragraph 3.63) nor in 'a suitable state for Flood Readiness' (paragraph 3.55). These statements were made in May 2002 and July 2004 respectively. However, as at January 2008 more than 80 per cent of the tasks recommended in 1998 for the electrical upgrade and the 'Priority 1' works in the broader Asset Management Plan remain uncommenced. The available

evidence is that the cost of the more urgent works required<sup>23</sup> is approximately \$1.5 million.

**3.75** In responding to the proposed report of this audit, the NCA drew attention to the most recent (April 2008) Annual Surveillance Report. In that report, ActewAGL concluded that:

Scrivener Dam is a 'Large' and potentially 'High A' hazard dam according to ANCOLD classification. The dam is under surveillance and has been maintained and operated satisfactorily.

The discharge capability of the dam for the 2001 design flood is questionable. The revised hydrology and the new safety design flood for the dam should be carried out and the structural and hydraulic capacity of the dam shall be examined against the new data.

The dam has five large steel flap gates which require regular maintenance and test operation. The reliability of the gate operation during a flood depends on the hydraulic system, pins and rams reliability and the availability of the operator. Any deficiency could lead to unwanted consequences.

The future developments at the Molonglo Valley, downstream of the dam, certainly upgrade the hazard class of the dam to possibly High A or even extreme. If this is the case, it requires such a dam to be capable of discharging a flood size of PMPDF to PMF.<sup>24</sup> This is not the current discharge capacity of the dam.

Most of the flap gate hinges are leaking due to the deteriorated seals. In particular the following [five listed] hinges are leaking excessively...

**3.76** ActewAGL made eight recommendations. ActewAGL noted that some of the tasks had been proposed in previous reports, but as no action had been taken on them by the NCA, they were included again. ActewAGL also noted that:

The NCA's works program has been reviewed as appropriate and satisfactory for ensuring on-going improvements and safety necessary for the dam. It is recommended sufficient funding be allocated for the works identified in this program and this program is amended as new works being identified.

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<sup>23</sup> This comprises the uncommenced electrical upgrade tasks and the uncommenced 'Priority 1' Asset Management Plan tasks.

<sup>24</sup> PMPDF means Probable Maximum Precipitation Design Flood. Probable Maximum Precipitation is defined by the Bureau of Meteorology as 'the greatest depth of precipitation meteorologically possible over a given size storm area at a particular location and at a particular time of the year.' PMF means Probable Maximum Flood.

## Recommendation No.4

3.77 The ANAO *recommends* that the NCA pursue avenues to accelerate the timeframe in which action will be taken to fund priority asset maintenance works identified by its expert consultants and accepted by the NCA as being necessary.

### *Agency response:*

3.78 The NCA agreed to the recommendation with the qualification that its implementation is subject to the availability of funding. The NCA further commented that:

Maintenance works (planned and unplanned) will continue to be completed by the NCA based on the availability of financial and management resources, competing priorities throughout the estate, and the overall level of risk. Public safety and asset protection will continue to be the primary considerations in NCA decisions related to the management of administered assets.

## 4. Diplomatic Leases

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*This Chapter examines the NCA's administration of leases over diplomatic land in Canberra.*

### Background

**4.1** There are 91 diplomatic missions resident in Canberra.<sup>25</sup> Under the terms of Article 21 of the *Vienna Convention on Diplomatic Relations*, Australia must 'either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way'.

**4.2** Under the terms of the National Capital Plan, 'diplomatic lands' form part of the Central National Area which is a Designated Area under the terms of section 10 the *Australian Capital Territory (Planning and Land Management Act) 1988* (The PALM Act). This means that the responsibility for the administration of diplomatic land rests with the Commonwealth and, specifically, the NCA.

**4.3** Although Australia's diplomatic relations with many countries are long-standing and many countries, such as the United States of America have leased land in Canberra for many years, a significant number of diplomatic leases are relatively recent. This is partly due to recent establishment of diplomatic relations with some countries, but also because a number of countries have relatively recently surrendered older leases in order to take up new leases on larger or better blocks: of the 71 current diplomatic leases, 31 per cent were let within the last ten years.

### Origins of arrangements relating to diplomatic land

**4.4** There is no extant statement of Government policy to guide the NCA in relation to the leasing of diplomatic land. There have simply been administrative arrangements which have evolved over time since land was first leased in Canberra.

**4.5** The first blocks of land for residential and business use in Canberra were sold by auction on 12 December 1924. At that time, the *Leases Ordinance 1918* provided that in addition to bidding for a block of land, lessees were required to pay annual land rent at a rate of five per cent of the unimproved

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<sup>25</sup> Department of Foreign Affairs and Trade, Annual Report 2006–07, October 2007, p. 156.

capital value (UCV) of the land (the rate was reduced to four per cent in 1935). Leases were issued then, as they still are, for a period of 99 years.

**4.6** Diplomatic leases were (and still are) granted under the terms of the *Leases (Special Purposes) Ordinance 1925*. The Ordinance provides that the Minister may grant to the Government of any country a lease for 'any diplomatic, consular or official purpose'. The Ordinance also provides that the Minister may grant such a lease 'subject to such covenants and conditions as to rent and otherwise as the Minister determines...'.<sup>26</sup>

**4.7** The United Kingdom was the first country to appoint a diplomatic representative to Australia in 1936, followed by Canada in 1937 and the United States of America in 1939. However, the first country to construct an embassy<sup>26</sup> in Canberra was the USA in 1942.

**4.8** During negotiations relating to the provision of a block of land for its Embassy, the USA expressed a preference to obtain a block on a freehold basis. However, this was not legally possible in the ACT. The Government proposed to the USA that a block could be provided on a similar leasehold basis to that of ordinary residential or commercial blocks, with the exception that no up-front premium would be required and that the annual rental payment would be 2 per cent of the unimproved capital value of the land, rather than 4 per cent as was usually charged.<sup>27</sup>

**4.9** The USA recognised that legally, there was no alternative to a lease. However, it advised the then Australian Government that it would prefer to make a single lump sum payment representing the cost of a 99 year lease rather than pay annual rental. The then Department of the Interior recognised that in calculating such an amount, it would be necessary to take account of the fact that the Australian Government would be foregoing future annual rental payments for 99 years on a block with a UCV which would increase over time and that the lump sum should be adjusted to take account of that. On 28 September 1940, the Commonwealth Actuary advised the Secretary of the then Department of the Interior:

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<sup>26</sup> For Commonwealth countries, the chief diplomatic representative and the mission he or she heads are known as High Commissioner and High Commission respectively. For non-Commonwealth countries, the terms are Ambassador and Embassy.

<sup>27</sup> Due to the passage of time, many of the documents from this period have either decayed to the point of illegibility or have been destroyed. However, the ANAO has seen slightly later documents which refer to the decision to charge 2% land rent, rather than 4%, as a deliberate Government decision at the time to encourage foreign countries to establish missions in Canberra, rather than Sydney or Melbourne.

I have examined the proposal contained in your memorandum of 3<sup>rd</sup> September, 1940, regarding the allotment of a certain area for the Consul-General of the United States of America. I consider that a sum covering 30 years purchase (viz. £6,210) would adequately represent the capitalized value of the following payments for ninety nine (99) years:-

(a) Rental of £78 per annum

(b) Rates of £129 per annum

**4.10** It should be noted that the amount of £6,210 that the United States was requested to pay (and which it did, in fact, pay) was considerably greater (in relative terms) than the UCV for the block which was £3,870.

**4.11** Over the following years, increasing numbers of foreign countries established diplomatic missions in Canberra. It became established practice that when leases were being negotiated the country involved could choose between three options:

- payment of a single 'premium' at the commencement of the lease; or
- payment of land rent at a rate of 2 per cent per annum of the UCV, with the rent to be reviewed every twenty years based on the UCV at the time of the review; or
- an exchange of land – that is, the foreign country provides a comparable block of land in its own country for an Australian mission (this option has only been used three times).

**4.12** In 1968, when Indonesia was seeking a lease, the then Department of External Affairs informed the then Department of the Interior that rather than charging land rent at the rate of 2 per cent, it should charge it at 8.5 per cent. The reason for this was that the Australian Embassy in Jakarta was being charged rent at this rate. The Department of the Interior pointed out to the Department of External Affairs that this rate was substantially higher than the 2 per cent that had been charged to all other countries and suggested that it reconsider the rate. It was not until 1 November 1971 that the Department of Foreign Affairs (as it had by then become) informed the Department of the Interior that it had reconsidered and had decided that 8.5 per cent was too high.<sup>28</sup> However, the Department of Foreign Affairs also advised the Department of the Interior:

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<sup>28</sup> While Indonesia was still charging Australia land rent of 8.5 per cent, the value of the land in Jakarta was much lower than the block that had been allocated for Indonesia in Canberra.

We agree that as rates can be expected to rise in normal circumstances, and as the Special Purposes leases are for a period of 99 years, the concept of paying 2% of the unimproved value of the land as annual rent is no longer valid and that 2% is too low... Departmentally, it would seem to us that, provided it is acceptable, a rate of 5% would be more equitable'.

**4.13** Following this letter, a lease was granted to Indonesia with a rate of land rent of 5 per cent. From that time on, all new leases were offered with a rate of 5 per cent. The ANAO was not able to locate any evidence that this change was considered in any depth: since the rate of land rent was at the Minister's discretion, there was no need for any legislative amendment and it appears that the change was simply applied from that point on. However, the terms of all of the earlier leases which had been granted with a land rent rate of 2 per cent did not allow for the rate to be changed and they are continuing at that lower rate.

**4.14** The effect of the increase in the rate of land rent was to make the 'premium' option, with a single lump sum paid at the commencement of the lease, more financially attractive. Nevertheless, it was not until 1992 that a foreign country selected that option. However, since then, a total of 18 countries have also chosen the 'premium' option, compared with only three which have chosen the land rent option. Unlike the USA lease, there was no record of analysis that calculated the present value of the payment over the leases' term to arrive at a suitable premium. Instead, in all cases, the 'premium' that was charged was an amount equal to the full UCV for the year when the lease was offered.

**4.15** There is a significant differential in financial terms between the 'premium' option and the 'land rent' option, particularly when UCVs are increasing at a rate well ahead of inflation. The ANAO obtained data which shows that the average annual increase of UCVs for blocks in the suburbs of Deakin, Red Hill, Forrest, Yarralumla and O'Malley (which are the suburbs containing diplomatic missions and residences of heads of mission) between 1999 and 2007 has been 16.63 per cent.

**4.16** The ANAO sought to quantify the effect on revenue received by the Commonwealth for countries which selected the 'premium' option. The calculation involved comparing the amount which those countries would have paid had they taken the 'land rent' option with the amount that they actually paid as their 'premium'. Due to the long time period of the leases, the ANAO



used the 'net present value' (NPV) technique<sup>29</sup>. The calculation also took into account the increases in rent at the time of review every 20 years.

**4.17** The difference between the total amount that the Commonwealth (through the NCA) would have received over the 99 year terms of the leases compared with what it has actually received in 'premiums' is \$385 million in 2006 dollars, assuming an annual increase in UCV of 10 per cent (which, as noted at paragraph 4.15, is less than the actual rate of increase over recent years). If a rate of increase of 8 per cent is assumed, the amount foregone is in excess of \$100 million.

## The Diplomatic Leasing Review

**4.18** The then National Capital Planning Authority (NCPA—the predecessor of the NCA) assumed the responsibility for the management of diplomatic leases in 1992 from the then Department of Arts, Sports, Environment and Territories. In late 1993, the NCPA decided to conduct a review of the function in order to 'establish and document the full financial impacts flowing between it and other government agencies'. The review was conducted by a consultant engaged by the NCPA and representatives from other agencies were invited to participate in the review's steering committee and to nominate participants in the review's working group. The agencies invited were the Department of Finance, the Department of Foreign Affairs and Trade and the Overseas Property Group of the then Department of Administrative Services.

**4.19** The review's terms of reference included reviewing the current valuations and lease payments policies including the twenty year rent review provision and the percentage rate applied to the unimproved value of land in achieving an adequate return to the Commonwealth. The review was to report to the Authority, the Minister for Housing and Regional Development, the Minister for Foreign Affairs and the Minister for Administrative Services by 30 June 1994.

**4.20** Among the issues that the review addressed was the issue of cost recovery. It referred to the (then current) Department of Finance Guidelines for Costing of Government Activities and noted that:

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<sup>29</sup> NPV can be defined as the value today of an asset to be received in the future and involves discounting the amount to be received by a set percentage. The discounting rate generally applied is the ten year capital market yield for Government bonds and is obtained from the Reserve Bank of Australia (RBA). In this context, 'present' means the date on which the lease was entered into and it is therefore necessary to further adjust these amounts to allow for inflation to 2006 dollars. This was done using the RBA's inflation calculator <<http://www.rba.gov.au/calculator/calc.go>>.

DoF Guidelines suggest that a less than average risk activity which is not significantly affected by the economic activity cycle, such as the rental of Commonwealth property to foreign governments for diplomatic missions, should use a real return of 8% as a benchmark.

**4.21** The review also observed that the (then) present level of 5 per cent being charged to diplomatic missions was 'well below the rate of 8 to 10% yield as required by the market' and cited the Australian Valuation Office as saying that 'the market requires an 8 to 10% yield on vacant land. This rate has remained constant over the past two (2) decades'.

**4.22** The review also addressed the twenty year period for review of rent, based on the increase in UCV over that period and concluded 'A twenty (20) year review period applying in a market where real capital increases average in excess of 10% per annum results in the rent payable being well below the actual market rent shortly after each rent review'. In relation to the rent review period, the report concluded:

The current twenty (20) year rent review period and five (5) percent rate charged on the unimproved capital value of the diplomatic sites does not achieve an adequate financial return to the Commonwealth, as determined by DoF Guidelines for Costing Government Activities.

**4.23** Based on the consultant's analysis, the report made 22 recommendations, of which the first six are relevant here. They were as outlined in Figure 4.1.

**Figure 4.1****Diplomatic Leasing Review—recommendations 1 to 6****RECOMMENDATION 1**

That amendments be made to the Leases (Special Purposes) Ordinance 1925 to reduce the rent review period from twenty (20) years to two (2) yearly intervals so as to better capture the incremental increases in land value for the Commonwealth.

**RECOMMENDATION 2**

That an amendment be made to policy relating to the percentage rate levied on the unimproved capital value of diplomatic sites to achieve an appropriate return on the Commonwealth's investment in the sites. The current rate of 5% should be increased to 8% to more accurately reflect the long term market rental value of vacant land. This change should take place immediately on any new leases.

**RECOMMENDATION 3**

The recommendations to introduce more frequent rental reviews and the setting of a more appropriate percentage figure for the calculation of rent are not to be retrospective on existing lease holders who do not seek to amend their lease during its term.

**RECOMMENDATION 4**

Any future variation to an existing lease by way of a surrender and regrant should incorporate recommendations 1 and 2 above.

**RECOMMENDATION 5**

The NCPA should initiate full cost recovery for its diplomatic leasing functions based on charging market rates for the provision of diplomatic sites, including the charging of application fees for the functions performed by the NCPA based on the Schedule of Charges as determined by the ACT Government Department of Environment, Land and Planning.

**RECOMMENDATION 6**

It is recommended that the policy of offering diplomatic sites to foreign missions for a term of ninety nine (99) years on the payment of an upfront lump sum premium amount equal to the unimproved capital value should be discontinued by the Commonwealth. It is recommended that in future diplomatic sites should be provided only by a rental lease arrangement that requires payment of an annual amount that is calculated as a percentage of the unimproved capital value of the land as reviewed on a reasonably frequent basis, or by way of land exchange or under the terms of a Reciprocity Agreement.

This method of recompense for the use of the site by ninety nine (99) annual rental payments provides a means to achieve an appropriate return to the Commonwealth on the increasing value of its investment, over time, while the exchange of land and reciprocity agreements are viewed as economically viable

Source: ANAO analysis of National Capital Authority records.

**4.24** The version of the report on the NCA's files is described as a 'Second Draft'. The NCA advised the ANAO that a final version of the report was never produced and it was not formally considered by either the NCA, the other agencies involved or by the Government. Consequently, its recommendations were not acted upon.

**4.25** Having regard to the significant financial differential between the two options and given that leases continue to be let,<sup>30</sup> there would be benefit in the NCA, in conjunction with other relevant agencies, reviewing the current approach with a view to allowing the government to establish its preferred position with respect to any new diplomatic leases which balances achieving a return on diplomatic land with its broader foreign policy objectives.

## Recommendation No.5

**4.26** The ANAO *recommends* that the NCA, in consultation with the Department of Finance and Deregulation and the Department of Foreign Affairs and Trade, develop options for consideration by government in relation to diplomatic leases that balance both revenue and foreign policy considerations.

### *Agency responses*

**4.27** The NCA and Finance agreed to the recommendation. NCA commented that:

The NCA notes that there is no extant statement of Government policy to guide the leasing of diplomatic land. The NCA considers it would be timely for the NCA and the Department of Foreign Affairs and Trade to meet and discuss the sensitivities and merits of diplomatic leasing and management arrangements. Any decisions on these matters would of necessity be a matter for government policy.

**4.28** DFAT agreed with qualification to the recommendation. DFAT commented:

DFAT suggests that options be developed for government consideration with a view to establishing policy guidelines on the management of the diplomatic

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<sup>30</sup> ANAO examination of NCA records showed that of the 71 current diplomatic leases, 22, or 31 per cent, were let in the last ten years. Further, as at 1 January 2006, the NCA had 19 vacant diplomatic blocks and 10 which are reserved for particular countries, although construction has not commenced. In addition, while the number of countries establishing a new diplomatic presence in Australia is small, a number of countries have surrendered leases in order to enter new leases on larger or better blocks. Further, when informed of the dramatic rises in land rent at the time of the 20 year rent review, a number of countries have surrendered leases and opted to enter a new lease using the 'premium' option.

estate in Canberra both in regard to identification and establishment of diplomatic sites and the subsequent arrangements for leasing of such sites to foreign governments, taking into account issues of reciprocity and noting possible implications for the Commonwealth's overseas estate arising from any restrictions imposed in regard to diplomatic leasing and the absence of freehold acquisition options.

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Ian McPhee  
Auditor-General

Canberra ACT  
15 May 2008



# Appendices





## Appendix 1: Formal Agency Responses

### NCA response



Australian Government  
National Capital Authority

File No: 08/86

Mr Brian Boyd  
Executive Director  
Performance Audit Services Group  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear Mr Boyd

#### PERFORMANCE AUDIT OF THE NCA's MANAGEMENT OF NATIONAL ASSETS

Thank you for your letter of 6 March 2008 providing the National Capital Authority (NCA) with an opportunity to comment on the proposed Performance Audit Report – The NCA's Management of National Assets.

The NCA notes the findings of the ANAO that, although requiring review and update, the NCA has generally appropriate asset management policies and a documented asset management system.

The NCA agrees with all five recommendations in the report as they provide a constructive basis for improving the NCA's overall asset management framework, particularly in relation to its asset management system, internal controls and contract management procedures.

One of the key challenges facing the NCA is its financial sustainability. Accordingly, in the attached summary, I have included comments on the appropriateness of current and future funding levels for the NCA to manage the increases in the number of assets for which it is responsible and for ageing assets. This issue is particularly relevant in the context of your audit findings.

The full and timely implementation of the recommendations will be subject to the availability of financial and management resources, prioritisation of maintenance needs throughout the estate and the overall level of risk. Public safety and asset protection will continue to be the primary considerations in NCA decisions related to the management of administered assets.

The NCA acknowledges the statement by the ANAO that the NCA's recent development of a major memorial, the National Police Memorial, indicated that its asset development practices are to an appropriate standard, with the Memorial being completed on time in September 2006 and within budget. In 2007 the Memorial won two architectural awards from the Royal Australian Institute of Architects (ACT Chapter).

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ABN 75 149 374 427

I wish to record my thanks to you and your audit team for the positive working relationship that has occurred between our agencies throughout the audit.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Pegrum', with a stylized, cursive script.

Annabelle Pegrum AM  
Chief Executive

29 April 2008

## Attachment 1

**FORMAL AGENCY COMMENTS ON THE PROPOSED REPORT**

The NCA agrees with all five recommendations in the report as they provide a constructive basis for improving the NCA's overall asset management framework, particularly in relation to its asset management system, internal controls and contract management procedures.

The NCA has started to implement those recommendations in the report that can be met within existing financial resources. The full and timely implementation of the recommendations will be subject to the availability of financial and management resources, prioritisation of maintenance needs throughout the estate and the overall level of risk. Public safety and asset protection will continue to be the primary considerations in NCA decisions related to the management of administered assets.

With respect to the comments in the report related to Scrivener Dam: the NCA has been advised in the most recent (April 2008) independent Dam inspection report that the Dam *'has been maintained and operated satisfactorily'* and *'The NCA's Forward works program has been reviewed and considered appropriate and satisfactory for ensuring on-going improvements and safety necessary for the dam'*. The incomplete maintenance works identified in the report were deferred because they were either rescheduled to occur in conjunction with a larger package of related works or they were, at the time, of a lower priority than unplanned works recommended by the external expert dam managers. Public safety and asset protection are foremost in the assessment of priority for the completion of works on Scrivener Dam. Since 1 July 2003, the NCA has completed sixty-three unplanned works which were of a higher priority than some of the planned works that were originally scheduled to have occurred in that period.

The NCA has commenced improving its management of national assets with the planned replacement of the NCA's existing asset management system. The new system is widely used elsewhere in the Commonwealth Government and will have a direct interface with other key business systems and processes. The system will automate some administrative workflows and improve both operational management and internal control in respect of contract management. The NCA has signed an agreement with a new provider and is planning a full implementation by December 2008.

**Funding for maintenance**

One of the key challenges in implementing the recommendations in a timely manner is the financial sustainability of NCA operations. The NCA has flagged the issue of appropriate funding for the ongoing maintenance of assets, and the impact of increased maintenance obligations and costs, over several years in published budget papers as well as in the 2006-07 Chief Executive Certificate of Compliance. The NCA has also included recommendations regarding this matter in our recent submission to the 2008 Joint Standing Committee on the National Capital and External Territories Inquiry into the Role of the National Capital Authority.

The NCA receives three funding streams relevant to the construction, maintenance, repair or replacement of assets:

1. *Appropriation for Departmental expenses* – including maintenance;
2. *Appropriation for Administered expenses* – including 'Depreciation Funding' for the replacement of assets; and
3. *Appropriation for Administered assets and liabilities* - for the acquisition of new assets.

In relation to *Appropriation for Departmental expenses*, the NCA is currently responsible for the management of some \$456m in administered assets (as at 30 June 2007). Over the past five financial years (2001 - 2007) the value of administered assets under NCA management has increased by 36% (from \$335m in 2001-02 to \$456m in 2006-07 – an increase of \$121m). By 30 June 2008, the value of NCA administered assets is estimated to increase to around \$600m.

The increasing number and value of Administered assets places further pressure on the Departmental maintenance budget. Typically, as new memorials and commemorative works are built, the NCA assumes responsibility for the ongoing maintenance and management of the asset. However, there is no guarantee of supplementation for the maintenance of these new assets.

Administered assets are valued on the basis of depreciated replacement cost. The movement in asset values serves as a meaningful base against which to compare maintenance budgets.

In 2001-02, the ratio of *Departmental appropriation for maintenance expense* to *Administered asset value* was approximately 1:35. This means that \$1 of maintenance funding was spent by the Authority for every \$35 of asset value held.

By 2006-07 this ratio had fallen to 1:45. The forecast for 2008-09 is another fall in the ratio to 1:60. This means that (unless there is additional funding) there will be \$1 of maintenance funding for every \$60 of asset value held. This is not sustainable given the Commonwealth's duty of care related to maintenance obligations including public safety, amenity and use, and compliance with environment and heritage legislation.

There have also been significant increases in utility costs beyond the control of the Commonwealth. The cost of water and electricity use supplied by ACTEW has doubled in the past 3 years across the estate despite reductions in water use to address the drought. There is no supplementation for these increases in utility costs. This too is not sustainable.

In relation to *Appropriation for Administered expenses*: This is the primary source of NCA funding for significant replacement and upgrade works for Administered assets. This funding stream incorporates 'depreciation funding'. The NCA view is that the depreciation funding model has a fundamental flaw. The model is based on the assumption that by providing a cash appropriation equal to the annual depreciation charge, agencies should, over the life of an assets, be able to accumulate sufficient cash reserves to provide for the replacement of assets (or components) as they reach the end of their useful life. The depreciating funding stream commenced in 1999 with no recognition of the age of individual assets. There was no back-payment to provide for the expired portion of useful life. As a result, the NCA will always be behind schedule on the replacement of components of older assets, such as Scrivener Dam

In relation to *Appropriation for Administered assets and liabilities*: These funds are used for the construction of new assets. This results in an increase in the value of Administered assets but does not result in an automatic increase in maintenance funding. As with new memorials and commemorative works, the NCA assumes responsibility for the ongoing maintenance and management of the asset without supplementation. *Appropriation for Administered assets and liabilities* is appropriated for the construction of new assets. To use it for maintaining or replacing existing assets would contravene the *Financial Management and Accountability Act 1997*.

**Additional guidance on asset management for agencies**

The report makes several references to the ANAO Asset Management Handbook. The NCA agrees the Handbook provides valuable advice and assistance to asset managers but it has not been updated since June 1996. The NCA would support production of a contemporary edition of the Asset Management Handbook including a Strategic Asset Management Framework for Commonwealth agencies. Such a framework would provide agencies with an integrated policy strategy to improve asset management and capital investment.

## DFAT response

The Department of Foreign Affairs and Trade (DFAT) notes that there is no extant statement of Government policy to guide the NCA in relation to the leasing of diplomatic land and that the Diplomatic Leasing Review undertaken (paragraph 4.18–4.25) was never finalised.

In the interim, Canberra has seen substantial growth in the size of the diplomatic corps with concomitant demand for land sites for the construction of new or expanded missions. At the same time, Australia faces similar challenges in identifying accommodation options for its diplomatic missions overseas.

DFAT considers it would be timely to undertake a comprehensive review of all diplomatic leasing and management arrangements. In this regard, DFAT notes that the ANAO report focuses on the question of whether current leasing arrangements for diplomatic sites in Canberra delivers an adequate financial return to the Commonwealth. The Report identifies the need to balance both revenue and foreign policy considerations in developing options for future government consideration but fails to address the latter in any detail. Separate from foreign policy considerations, the report makes only brief mention of the issue of reciprocity, as noted in Recommendation 6 of Figure 4.1. The Commonwealth could face prohibitive costs arising from reciprocal treatment being imposed by foreign governments on leasing arrangements for Australia's diplomatic missions overseas. Increased revenue generation in Canberra resulting from shorter rental review periods could be offset by increased costs for Australia's overseas diplomatic estate.

While noting the audit approach (paras 1.8–1.9 refer) focused on the operation and management of existing assets, DFAT considers the question of cost recovery on the diplomatic estate should be examined with a mind to future operational needs and management of the estate. The report does not address the question of future land requirements to respond to demand from foreign governments. Any review of leasing arrangements and cost recovery considerations would ideally be sufficiently comprehensive to include issues relating to the identification, procurement and development of additional land for the diplomatic estate, as well as undertaking a detailed assessment of international practice, possible issues of reciprocity and implications for Australia's overseas property estate.

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Department of Defence  
Defence Materiel Organisation

Audit Report No.2 2007–08  
*Electronic Travel Authority Follow-up Audit*  
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