

LEGAL AUTHORITY TO UNDERTAKE CONSTRUCTION PROJECTS

CONSERVATION AND LAND MANAGEMENT ACT 1984

- CALM ACT DOES NOT PROVIDE THE DEPT AUTHORITY TO UNDERTAKE CONSTRUCTION (PUBLIC WORKS) PROJECTS

PUBLIC WORKS ACT 1902

- IS THE AUTHORITY UNDER WHICH CONSTRUCTION (PUBLIC WORKS) PROJECTS FOR THE STATE ARE UNDERTAKEN
- MINISTER FOR WORKS (DEPT OF HOUSING AND WORKS) IS RESPONSIBLE FOR THE ADMINISTRATION / IMPLEMENTATION OF THE ACT
- MINISTER FOR WORKS IS PRINCIPAL TO THE CONTRACTS LET UNDER THE ACT
- EXEMPT AGENCIES

STATE SUPPLY COMMISSION ACT 1991

- IS THE AUTHORITY UNDER WHICH GOODS AND SERVICES ARE ACQUIRED
- SSC POLICIES AND PROCEDURES ARE THE FOUNDATION FOR CALM'S SUPPLY PROCEDURES MANUAL
- IS STRUCTURED SUCH THAT THE STATE SUPPLY COMMISSION SETS POLICIES AND PROCEDURES BUT DELEGATES THE AUTHORITY TO PURCHASE TO AGENCIES
- CALM'S DELEGATION LIMIT IS CURRENTLY \$250,000

DEFINITION OF WORKS

- (1) Every work which the Crown, or the Governor, or the Government of Western Australia, or any Minister of the Crown, or any local authority is authorised to undertake under this or any other Act.
- (2) Any railway authorised by special Act or any work whatsoever authorised by any Act.
- (3) Tramways.
- (4) Any works for or in connection with the supply of water to, or for or in connection with the sewerage of, any city, town, or district, including all reticulations.
- (5) Buildings for the occupation of either or both of the Houses of Parliament or for public offices.
- (6) Hospitals within the meaning given to that term by section 2 of the *Hospitals and Health Services Act 1927*, medical clinics, hostels and institutions including residences for staff, court-houses, gaols, watch-houses, lock-ups, police barracks, or quarters.
- (7) Observatory.
- (8) Public schools or any other schools authorised to be established wholly or in part at the public cost by any Act in force for the time being, universities, colleges, technical and other educational institutions, including residences or hostels for teachers or students, and play-grounds.

DEFINITION OF WORKS (Contd)

- (9) Public libraries, mechanics' or miners' institutes, agricultural halls, or schools of art.
- (10) Wharves, ferries, piers, jetties and bridges.
- (11) Parks or gardens or grounds for public recreation or places for bathing, and for the reclamation of land for or in connection therewith.
- (12) Public cemeteries.
- (13) Public wells or works for the conservation of water.
- (14) The protection and preservation of any cave or place of scientific or historical interest.
- (14A) The protection and preservation of indigenous flora and fauna.
- (15) The establishment of public abattoirs.
- (16) Harbours and ports, including the provision of storage, handling and wharfage areas and other facilities normally ancillary to the conduct of shipping operations, break-waters, leading marks, navigational aids, docks, slips, the alteration or improvement of channels, waterways and rivers, the protection of foreshores and banks, the provision of new channels and related works, including the landing and disposal of silt.
- (17) Quarries or works for procuring stone, gravel, earth, or any other material required for the construction of, or any purpose connected with any public work as aforesaid;

DEFINITION OF WORKS (Contd)

- (17A) The procuring from land (other than Crown Lands and public reserves) of timber, stone, gravel, earth and any other material required by or for the State for or in connection with the carrying on of any industrial or other undertaking or activity which is being carried on by or for the State under any law authorising the same.
- (17B) Buildings and structures required for fire brigade purposes.
- (17C) The establishment and the extension by the Governor of sites for towns.
- (17D) The establishment and the extension by the Governor of agricultural research stations.
- (18) Drainage works in connection with any city, town, or district, and the improvement of rivers, watercourses, lakes, or inlets, including deepening, widening, straightening or otherwise altering, and disposal of silt.
- (19) Any building or structure of whatsoever kind which, in the opinion of the Governor, is necessary for any public purpose.
- (20) Any road, stock route, viaduct, or canal.
- (21) Any work incidental to any of the aforesaid works.
- (22) Any land required for or in connection with any work as aforesaid.
- (23) Any survey in connection with any proposed public work.

CONSTRUCTION (WORKS) PROJECTS WITHIN CALM

- HISTORICALLY UNDERTAKEN MINOR WORKS (UP TO \$100,000)
- NEED TO CAREFULLY ASSESS RISK
- ENSURE PROFESSIONAL COMPETENCE OF PROJECT “TEAM”
- ENSURE CORRECT QUOTATION / TENDERING PROCESSES ARE USED
- HIGH RISK / PROJECTS >\$100,000 TO BE UNDERTAKEN BY DHW

USING DHW TO UNDERTAKE WORKS

- DHW CONTRACT THE WORKS OUT AND MINISTER FOR WORKS BECOMES PRINCIPAL TO THE CONTRACT
- DHW CHARGE A FEE FOR SERVICE
- DHW CARRY SOME OF THE CONTRACTUAL RISK
- AGENCIES CAN RETAIN A FAIRLY HIGH LEVEL OF INVOLVEMENT BUT NEED TO CLEARLY DEFINE CALM/DHW RESPONSIBILITIES UPFRONT

RESOLVING THE LEGAL AUTHORITY ISSUES

- NUMEROUS MEETINGS IN PAST WITH
STAFF OF DHW AND ITS
PREDECESSORS
- DHW DRAFT PAPER
- HIGH LEVEL INTERAGENCY
DISCUSSION

DHW DRAFT PAPER

WHEN MUST DHW BE INVOLVED?

There is not a clear dividing line between when DHW should be involved in procuring works under the *Public Works Act* and when it is appropriate for client agencies to manage the work themselves. DHW recommends the following guidelines:

If it were a private project, would it require planning approval under the *Town Planning and Development Act*?

If it were a private project, would it require a building licence under the *Local Government (Miscellaneous Provisions) Act*?

If it were a private project, would it require a registered builder under the *Builder's Registration Act*?

If the answer to any of these questions is *YES*, then the work should be referred to DHW.

In most cases, when work is referred to DHW, it will be arranged through normal DHW processes. There is, however, some flexibility, and special arrangements can be made in appropriate circumstances.

DHW DRAFT PAPER (CONT'D)

WHEN CAN A CLIENT AGENCY MANAGE THE WORK ITSELF?

In general, client agencies can manage low risk, low value, simple works that only require a single contractor (i.e. where there is little coordination work involved) or where the work does not affect the safety or amenity of the building. Typical examples of appropriate work include:

Internal fitout changes (where these do not affect lighting, ventilation or escape routes);

Installation of consumer goods such as air conditioners, dishwashers, stoves, etc.

Landscaping and paving;

There are some special cases where more complex work may be carried out directly by the client agency. These include:

Work Undertaken By Volunteers and Work As Part Of Training

WHERE TO FROM HERE

CALM TO MEET WITH DHW TO AGREE
ON DEFINITION OF WORKS THAT CAN
BE UNDERTAKEN BY CALM