

# **SOUTH AUSTRALIA**

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## **INTERIM REPORT OF THE AUDITOR-GENERAL**

**ON THE**

## **HINDMARSH SOCCER STADIUM REDEVELOPMENT PROJECT**

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*Tabled in the House of Assembly and ordered to be published, 25 July 2001*

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**Fourth Session, Forty-Ninth Parliament**

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2001





# **Auditor-General's Department**

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24 July 2001

The Hon J C Irwin, MLC  
President  
Legislative Council  
Parliament House  
**ADELAIDE SA 5000**

The Hon J K G Oswald, MP  
Speaker  
House of Assembly  
Parliament House  
**ADELAIDE SA 5000**

Gentlemen,

Pursuant to *Public Finance and Audit Act 1987* I herewith provide to each of you a copy of my 'Interim Report of the Auditor-General on the Hindmarsh Soccer Stadium Redevelopment Project'.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K I MacPherson'.

K I MacPherson  
**AUDITOR-GENERAL**



**Interim Report of the Auditor-General on the  
Hindmarsh Soccer Stadium Redevelopment Project**

**TABLE OF CONTENTS**

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	Page
INTRODUCTION.....	1
PRESENT STATUS OF MY EXAMINATION.....	1
Factual Findings — Chapter 4 .....	1
Detailed Findings Addressing the Terms of Reference — Chapters 5 to 10 .....	1
Challenge to the Scope of My Examination and My Draft Report .....	2
Finalisation of My Draft Report.....	2
Some Observations for the Information of Parliament.....	2



# HINDMARSH SOCCER STADIUM REDEVELOPMENT PROJECT

## INTRODUCTION

As I reported to Parliament during the June Estimates Committee Hearings, I have completed a draft Report of my tentative findings of my Examination of the Hindmarsh Soccer Stadium Project. Certain matters have arisen regarding the finalisation of my draft Report that, in my opinion, should be brought to the attention of the Parliament. These matters are set out hereunder.

In summary terms, representations have been made that should I attempt to report in accordance with the request by the Treasurer, pursuant to section 32 of the *Public Finance and Audit Act 1987*, reflecting the resolution of the Legislative Council of 17 November 1999, then legal proceedings by way of Judicial Review may be undertaken.

## PRESENT STATUS OF MY EXAMINATION

### Factual Findings — Chapter 4

On 19 February 2001, I distributed for purposes of procedural fairness portions of my draft Report containing my tentative factual findings.

Since March 2001, I have received the written comments of some recipients of the draft. I have considered those comments. Some of the comments have led me to revise some of my tentative factual findings.

### Detailed Findings Addressing the Terms of Reference — Chapters 5 to 10

Chapters 5 to 10 of my draft Report contain detailed tentative findings addressing each Term of Reference. These chapters were distributed for purposes of procedural fairness from 28 May 2001. I set a timetable for the provision of written comments. That timetable envisaged receipt of all comments by 19 June 2001.

I have encountered substantial delays in the natural justice process for Chapters 5 to 10 of my draft Report.

Submissions have been made to me by various individuals as to their private interests in requiring more time to respond. At all times, in considering these submissions, I have endeavoured to balance the private interests of the individuals concerned with the public interest which requires that the results of my Examination be tabled in Parliament as soon as is reasonably practicable. I have been guided by the advice of Senior Counsel engaged by me to advise on the examination process. At times I have accepted the submissions made by various individuals as to their private interests.

One person has provided submissions on a rolling basis since 5 July 2001. So far I have received ten separate submissions from that person specifically addressing less than half of the draft Report. I have made repeated requests for a final submission. I have received no commitment as to when that will be provided.

Another person has not made any written submissions or adduced any further evidence on the substance of draft Chapters 5 to 10. Instead, that person has challenged the scope of my Examination and my draft Report.

I consider both persons have now had sufficient opportunity to comment and I will proceed to finalise my draft Report on that basis.

## **Challenge to the Scope of My Examination and My Draft Report**

On 4 July 2001, I received a detailed submission from one person's solicitors on the proper scope of my Examination and my draft Report. It was submitted that the entirety of Chapters 5 to 10 of the draft Report should be excised and that specific whole chapters should be excised on the basis that the subject matter and structure of those chapters is not authorised by section 32 of the *Public Finance and Audit Act 1987*.

I have considered the submission for excision of those chapters. I have rejected it. I have invited this person to pursue such action as might be open.

Two others have made submissions that substantial parts of my draft Report are ultra vires and not properly the subject of a section 32 Examination and Report. Those persons have also provided comments on the substance of my draft Report.

## **Finalisation of My Draft Report**

The finalisation of my draft Report depends on when I am able to complete the natural justice process. When I addressed the Estimates Committee in June 2001, I expected to finalise my Report by August in readiness for the Spring sitting of Parliament.

If litigation is commenced against me, it is very unlikely that I will be able to finalise my draft Report in order to table it in the Spring sitting of Parliament.

## **Some Observations for the Information of Parliament**

I recognise that it is important that I accord procedural fairness and that at all times I act within my lawful authority. By distributing my tentative findings and requesting responses, I have sought to discharge my responsibilities regarding procedural fairness. On the matter of my lawful authority, I have sought independent legal advice including the advice of Senior Counsel. Notwithstanding these steps that have been taken by me to maintain the lawfulness of the arrangements associated with this examination, individuals may still not consider those steps adequate.

Any party, through their solicitors, can test my right to report in accordance with the Terms of Reference requested of me by the Treasurer. This is clearly their right. There can be no criticism if a party pursues legitimate concerns. It would then be for a court to rule on the matter. This will lead to substantial delay and cost. The Parliament has on one earlier occasion amended section 32 as a result of issues that were raised in the course of an Examination under that section to enable the report of the examination to be completed and presented to the Parliament.

If Parliament considers that it is in the public interest to receive a report addressing the Terms of Reference requested by the Treasurer, then, to obviate the possibility of further expense, delay and argument regarding my authority to report, including the right to make findings regarding the conduct of certain persons, it would be necessary to legislate. That legislation could deem the matters referred to in the Terms of Reference to be matters upon which the Auditor-General is authorised to report the result of his investigation and to be authorised to make such findings regarding conduct and other matters referred to in the request by the Treasurer as, in his opinion, are supported by the evidence.